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MAN AND SOCIETY

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MAN AND SOCIETY

AN INTRODUCTION TO SOCIOLOGY

BY

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To

MY FATHER AND MOTHER

P. F. H. AND M. L. O'D. H.

AUTHOR'S PREFACE

This book aims to provide a groundwork for the study of society and its problems. It seeks merely to prepare the student for advanced work in some specialized field. Both the choice of subject-matter and the method of presentation have been dictated by this central idea. The purpose throughout has been to examine the facts and trends of contemporary society in their moral setting, and to show their agreement or disagreement with sound principles of social welfare. The book lays no exaggerated claim to originality. Indeed, it is doubtful whether there is very much that is new to be said regarding man's relations to his fellow man. The really new things are for the most part arresting novelties—the theories or vagaries of individuals. Of these, it would seem, the modern world grows increasingly wearied and impatient.

The sixteen chapters of the text are arranged in orderly sequence under six main divisions: the Individual, Social Virtues, Family, State, Property, and Production and Human Welfare. Each of these sections may provide a starting point for advanced courses in social science: Social Origins; Social Ethics; Problems of the Family; Domestic and International Law; Wealth and Human Welfare; and Labor and Rural Problems.

The comprehensive outline of the book accounts for the wide variety of themes covered in the text. If it be objected that too many topics have been included, it might be asserted with equal relevance that quite as many have been omitted. Questions such as immigration, mental hygiene, crime and punishment, strikes and injunctions, and a host of others have been referred to only casually, not because of any intrinsic unimportance, but simply because of space limitations. The subjects chosen for emphasis and detailed treatment are those which seemed to be more fundamental. If the book suggests related subjects for inquiry, and, above all, if it achieves the wider purpose of accustoming the student to observe everyday phenomena, and of prompting him to do his part in correcting the weaknesses of his social and economic environment, its mission will amply have been fulfilled.

The contents and arrangement of the text are the outgrowth of eight years of college class work at Marquette University and St. Francis Seminary, and have been tested by first-hand experience with social agencies, arbitration boards, employers' organizations, trade-union bodies, and various civic associations. Although the book is intended primarily for college courses in sociology, the author trusts that it will be of use also to the constantly increasing number of men and women who are members of social study clubs and reading circles. These latter will find the selected references and review questions particularly suited to their purpose.

Many persons have aided directly or indirectly in gathering and ordering the materials of the book: teaching confrères, students, librarians, social workers, employers, and trade-union officials. To all the author wishes to express his thanks. He is especially grateful to the following, who have read either all or part of the text in manuscript and offered much constructive criticism: Dr. Edward A. Fitzpatrick, Dean, and Miss Irma Hochstein, Statistician, Marquette University; the Rev. Dr. Edwin V. O'Hara, Rural Life Bureau, and the Rev. Raymond A. McGowan, Social Action Department, the National Catholic Welfare Conference, Washington; the Rev. Dr. Frederick Schulze, St. Francis Seminary; the Rev. John J. O'Boyle, A.M., Pio Nono, St. Francis, Wisconsin; Dr. Thomas Parker Moon, Columbia University; the Rev. Dr. William J. Kerby and the Rev. Dr. John M. Cooper, Catholic University of America.

The author is particularly happy to record his profound indebtedness to his former teacher, the Rev. Dr. John A. Ryan of the Catholic University of America, for reading the entire manuscript critically, and making many valuable suggestions. Without the benefit of his expert advice and comments, the ethico-economic chapters, especially, would lack whatever authority they may possess. Special thanks are due also to the Rev. Francis E. Murphy, St. John's Cathedral, Milwaukee, who spent many laborious hours over the manuscript, proposing more accurate and, not infrequently, more correct statements of some of the difficult matters treated. His sympathetic and valued assistance is in no small measure responsible for any virtue of readableness that might appear in the text. Finally, grateful appreciation is expressed to Dr. John A. Lapp, editor of The Century Catholic College Texts. His helpful counsel, his preparation of the review questions, and his kindly coöperation throughout place the author under a deep debt of gratitude. It is perhaps superfluous to add that the foregoing acknowledgments are made with no intention of making others accountable for the conclusions and opinions set forth in any of the chapters. The author assumes full responsibility for the book as it stands.

FRANCIS J. HAAS.

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May 1, 1930.

EDITOR'S INTRODUCTION

It is a privilege to write an introduction to this book, *Man and Society,* by Dr. Francis J. Haas. The scope of the materials, the sympathetic approach to the problems of humanity, the fundamental character of the work, and the fine social spirit which pervades throughout are all invitations to eulogy.

Many books on sociology have been written and published in recent years, but it may be ventured that none is more closely and faithfully devoted to the study of man and the forces of destruction and of evil which beset him, and yet more sympathetic with the means of protecting and promoting his integrity, than this book. Mankind is not here treated objectively, as in a laboratory, merely to see the cruel facts; the facts are seen, to be sure, but man as a divine creature with a glorious destiny, and as a being worthy of all that can be done for his safeguarding and upbuilding, is never lost from the sight of the author.

There is scant patience manifested in this book with the doctrine of *laissez faire* or with the so-called law of the "survival of the fittest." The author recognizes that the individual man is practically helpless at best in the mazes of economic life, and completely so when the machinery gets out of gear, and that he needs the collective support of his fellows in coöperative movements, in business organizations, in labor-unions, and in governmental action for welfare. He recognizes, too, that selfish localism or narrow nationalism is not the goal, but that the welfare of man must be thought of as nation-wide and international in scope. A world-wide view of the relations of peoples of diverse nationalities is not the least of the admirable features of the book.

While intended as a college textbook, *Man and Society* should make an appeal to the adult reader who seeks a basis for an understanding of the perplexing questions of modern social life.

John A. Lapp.

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MAN AND SOCIETY

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CHAPTER I

THE ORIGIN OF MAN

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A. Social Significance of Belief in Dignity of Soul—B. Divine Origin of the Soul—C. Uncivilized Peoples Not Semi-Animals

III. THE HUMAN SPECIES AND ITS DIVISIONS

IV. ONENESS OF THE HUMAN SPECIES

V. AGE OF THE HUMAN RACE

No study can be more interesting or more important than the study of man. The generic term, ''man,'' includes all men, women, and children, whether they be white, yellow, or black, and wherever they may be found on the globe. Among the many questions concerning man, the first in importance is: What is man? It is customary to say that he is a union of body and soul, meaning thereby that he is a mass of flesh, blood and bones, weighing as an adult from one hundred and twenty-five to two hundred pounds, and kept alive by an inward driving principle of action. This principle of action, called the soul, is as invisible as an electric current, but so necessary for man that without it he would be like a flower plucked from its stem.

Each of the two elements in man, namely, his body and his soul, calls for special consideration. That man has a body does not have to be proved to him. He is fully aware of its existence, and also of that of the bodies of other persons,—his parents, brothers and sisters, and friends. In like manner, the fact that he has a soul does not have to be proved to him. Although he cannot see the soul in himself or in others, he is fully conscious that it is the principal element of what he calls "himself," or his "ego"; and he sees that it is the principal element in other persons. Moreover, he is fully conscious that his soul is a highly active principle. It is true that he cannot weigh, or touch, or see his soul. In a somewhat similar manner, the scientist speaks of the waves of sound, electricity, or radio, without knowing anything more about their ultimate nature than that they are extremely active and charged with energy. Every person, however, knows, and in the best of all ways, that is, by his own consciousness, that his soul is the source of his activity and his being, and that the soul performs identical functions in others.

I. THE HUMAN BODY

As to man's body, it need scarcely be said that it takes its origin from a human father and mother, in the same way that an animal or a plant is born of parents of its own kind. But parents, whether plant, animal, or human, are in turn the offspring of other parents; and thus the stream of life in plant or animal or man can be traced back to an original source from which it sprung. When it is asked: What was the source of the *human* stream of life? or, What was the character of the first *human* parents, and how were they formed? various answers are given. There are those who say that the bodies of the first human beings in the world were developed from the bodies of some form of animal. This belief attained considerable popularity during the middle of the last century, after the appearance of Charles Darwin's book, the *Origin of Species,* in 1859. Before Darwin's time the belief did not claim to be a conclusion of science, yet it had found some favor chiefly with those who wished to show that everything in the world is purely material, set in motion and driven by the blind forces of nature.

A. Arguments for Human Evolution.—The reasons usually given for the belief that man's body, as well as the bodies of the anthropoids, is evolved from a single animal type are drawn from four fields of science: (1) Ontogeny, (2) Morphology, (3) Geography, and (4) Paleontology.

1. *Ontogeny.*—The argument from ontogeny emphasizes the similarities between the pre-birth period of man and the pre-birth period of animals. It was originally advanced by Karl von Baer, and later elaborated, but with unwarranted conclusions, by Haeckel. The argument points out that up to an advanced stage of his embryological develop-

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ment, man passes through, or rather recapitulates, the stages of life of all the lower animals, just as a short paragraph at the end of a chapter of a book summarizes all that was said up to that point. The evolutionary ontogenist also stresses such phenomena as the unusual arm- and shoulder-strength possessed by very small children. This phenomenon is interpreted as a carry-over from the period when man's ancestors swung from tree to tree. It is to be noted that the evidence from ontogeny is now considered one of the strongest arguments for evolution.[1]

2. *Morphology.*—Morphology, or comparative anatomy, studies the likenesses existing between the higher animals, such as the dog or the whale, and man. For example, it examines the structural similarity between the arms of man and the front legs of the dog or the flippers of the whale. It also points out that man has certain vestigial organs, such as the vermiform appendix, the pineal gland, and the superfluous vertebræ at the base of his spinal column, all of which seem to be unnecessary for his well-being at the present time. The anatomist, Wiedersheim, has listed about ninety such parts in the human body. From these data the conclusion is drawn that the organs which are useless to man in his present state, have been carried over by him from the period of his animal existence.

The gorilla is frequently compared with man in bodily structure. True, its skeletal organization is strikingly similar to that of man, especially in its functional disposition of upper and lower limbs, even to its five-toed feet. There are, however, many important differences between the gorilla and man. For example, the spinal column of the gorilla, as of the other anthropoids, is constructed to balance a head with a relatively small brain weight. Again, the pelvis of man is shaped like a basin, in order to support the entire upper part of the body, and to permit erect carriage. The anthropoid pelvis, on the other hand, resembles an inverted basin, and hence the animal carries itself, at best, semi-erect. It is to be noted, moreover, that the resemblances between man and the anthropoids, striking as they are, do not necessarily prove a genetic relationship between the body of the animal and that of man. At most, they *suggest* that man's body and that of the anthropoid ape descended from a common animal ancestor.

3. *Geography.*—Many scientists hold that the human race originally migrated into the different parts of the habitable globe from some point in Southeastern Asia, or the adjoining island districts which were

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[1] Kellogg, *Evolution*, p. 54.

probably at one time attached to the mainland.[2] One of the strongest reasons for this assumption is that within this area, particularly in the Oceanican district, peoples are found who are seemingly mixtures of blacks, whites, and yellows. These tribes cannot be classified as either predominantly white, black, or yellow, because of the long intermixture of blood, which dates back many generations. On the other hand, the countries most distantly removed from the area occupied by the mixed races in Southeastern Asia and Oceanica, are generally inhabited by the unmixed races. Thus the white race is found in Europe, and in the New World, whither it has only recently migrated; pure negroids, or blacks, are found in the central and southern part of Africa; and seemingly pure Mongoloids, or yellows, are found on the American continent. Now, it so happens that the primates, that is, the animals most closely resembling man, are found, not in the districts farthest removed from Southern Asia, but in the zone reaching from Central Africa eastward to Southeastern Asia and some of the adjoining territory. This zone, it is to be observed, overlies the district from which man is believed to have begun to migrate into different sections of the earth.[3] Many evolutionists see in this coincidence a strong argument for the conclusion that the bodies of the first human beings evolved from the bodies of the ancestors of those present-day animals, for example, the chimpanzee and gorilla, whose structure and carriage most closely resemble those of man.

4. *Paleontology.*—Paleontology is the study of the fossil remains of man and other organisms found in the strata of the earth. Remains of what are almost certainly human beings have been found in Germany, France, England, Java, and many other places from Australia to Galilee to Western Africa. The six discoveries most frequently discussed are: (*a*) *The Neanderthal race.* The first skeletal remains of this race were found in 1856, near Düsseldorf, Germany, in a ravine known as Neanderthal. Other remains have since been found in Croatia, Belgium, France, Spain, and Africa, and the total number of skeletons or parts of skeletons of this race is now nearly forty.[4] (*b*) *The Cro-Magnon race.* The first skeletal remains of this race were found in Dordogne, France, in 1868. This discovery revealed the remains of five individuals. Since that time the skeletons and remains of over 80 persons have

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[2] Haddon, *The Wanderings of Peoples*, p. 15; MacCurdy, *Human Origins*, Vol. I. p. 311; Wissler, *Man and Culture*, p. 38.

[3] Wallis, *An Introduction to Anthropology*, p. 36.

[4] Boule, *Les Hommes Fossiles*, 2 ed., p. 177; Goury, *Origine et Evolution de l'Homme*, pp. 125 *et seq.*; Marett, *Anthropology*, pp. 77 *et seq.*

been found.[5] (*c*) *The Java Man.* The remains of the Java "Man" were discovered near Trinil in Java in 1891, and consist of a skull-pan, parts of the leg bones, and a few fragments. (*d*) *The Heidelberg Man.* This discovery was made in Heidelberg, Germany, in 1907. Only the lower jaw-bone of one individual was found. (*e*) *The Piltdown Men.* The remains of these individuals were found in Sussex, England, in 1911. They are fragmentary, and there is much question as to whether they are parts of the same individual. (*f*) *The Rhodesian Man.* The remains of this individual were discovered in a cave at Broken Hill, Northern Rhodesia, Africa, in 1921. They consist mainly of a cranium, but lack the lower jaw-bone.

In the probable order of their antiquity, beginning with the oldest, these remains are: the Java Man; the Heidelberg Man; the Piltdown Men; the Neanderthal race, including perhaps the Rhodesian Man; and the Cro-Magnon race. Because these remains are called "men" it should not be inferred that all of them are complete enough to be certainly regarded as human. Some of them, for example, the Heidelberg "man," of which only the lower jaw-bone has been discovered, are very incomplete. Pictures or "reconstructions" of the entire "man" from a single fragment, such as the skull-pan of the Java remains, or the lower jaw-bone of the Heidelberg "man," are sometimes shown in museums, but it is scarcely necessary to say that such reconstructions are largely the work of the imagination of the artists, who have completed the bust or picture of the individual from a very small fragment.

At the present time, paleontologists are quite generally agreed that the Java remains are not those of a human being, while the Heidelberg remains are probably human. The weight of opinion also inclines toward regarding all but the lower jaw-bone of the Piltdown remains as human. As to the others, there is only slight doubt that the Neanderthal and Rhodesian remains are those of men, and no doubt whatsoever regarding the Cro-Magnon remains.[6]

The argument usually drawn from ancient human remains runs as follows. The older skeletons resemble those of the higher anthropoid apes; the later ones those of present-day man. For example, the older ones show a relatively low cranial capacity, a heavy chinless jaw, and a disposition of the bones indicating a semi-erect or stooping carriage, all of which point to kinship with the anthropoids. The skeletons of the more recent races, on the other hand, bear a striking similarity to man at present. This circumstance, it is said, points to the gradual evolution of the human body from an animal type.[7]

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[5] Boule, *op. cit.*, p. 274; Goury, *op. cit.*, p. 178.

[6] Mainage, *Les Réligions de la Préhistoire*, pp. 38–49.

The evidence from the human remains seems to be reinforced by that of the cultural remains of early man. In exploring the various deposits of the earth's surface, excavators usually find that the deeper they go the more crude and primitive the implements and utensils of man become. Thus stone implements and weapons are found below implements and weapons made of metal. Similarly, chipped flints are found underneath those which are polished. While chipped flints are found also in great numbers in the later strata containing polished flints, no polished stone implements are found below the strata containing those which are chipped. Again, artefacts of stone, for example, fish hooks and needles, are found below those made of bone, although the former are sometimes found in the strata in which the latter occur. This evidence clearly indicates a gradual progress in the making of tools and utensils. The evolutionist regards it as proof that man passed from an animal to a human state. The earliest ancestors of man, according to evolutionary theory, were sub-human and, consequently, their tools and implements were very crude. As they advanced in bodily and mental development, their tools and implements became more refined until they reached their present state of perfection.

Thus the existing evidence from human and cultural remains is interpreted as converging toward the conclusion that the human body was evolved from a lower to a higher human form. This evidence is of course far from complete, but it establishes a presumption, at least, for the claim that a gradual development in the body of man has taken place. It would be a mistake, however, to say in all confidence that man's body has developed from a simple animal form up to its present grace and perfection. This conclusion is not warranted even by the cumulative evidence as it exists at the present time. On the other hand, it is not true to say that there exists no evidence pointing to the gradual development of the human body from that of an early animal ancestor.

It should be repeated that man is considered at this point not in his entirety, but only insofar as his body is concerned. Those students of anthropology who hold that God fashioned the human body only after a process of development had taken place, insist on the essential distinction between the soul and the body of man. They say that it was the plan of the Creator that the human body should pass through a long period of preparation before the first man and woman were created. In the opinion of these authorities, the "slime of the earth"[8] into which the Creator breathed the breath of life, or the human soul, was nothing other than one of the higher animals which God had prepared for long eras of time before He willed to transform it into a human body and endow it with a soul. This view obviously assumes that evolution played a part in the formation of the human body.

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[7] Kellogg, *Evolution*, p. 9.

B. Evolution and Christian Doctrine.—How does the evolutionary theory of the human body, as just explained, square with Catholic teaching? The answer to this question is that there is nothing in official or corporate Catholic teaching which condemns the view that God formed the body of the first man out of organized matter, such as one of the anthropoid apes. But it is to be emphasized that Catholic teaching insists that mankind has descended from a single pair, and that consequently the human race possesses essential unity. This position is dictated by the Catholic doctrines of Original Sin and the Redemption. These doctrines teach that original sin is contracted by every child by virtue of its descent from the first man, and that all the descendants of the first man are redeemed by the death of Jesus Christ. It is clear that these doctrines assume the essential oneness of the human family. So long, therefore, as the scientist admits descent from a single pair, he will find nothing in Catholic teaching to prevent him from holding any theory he chooses regarding the bodily evolution of man.

It is interesting to observe how the basic assumption of the Catholic position, namely, the oneness of the human race, is supported by the findings of science. When transformations or "jumps" in species, or quasi-species, occur among animal organisms, they do not occur constantly and uniformly, but irregularly, that is, here and there, and not simultaneously. Assuming the evolutionary process of transformation from animal to man, and, in addition, that God did not intervene to restrict the transformations to but one instance, i. e., to the creation of man, it would be necessary to conclude that there were *many* transformations or "jumps" from animals to man, with the result that there would be several races of human beings instead of one. But this is not the case. There are not several races of human beings.[9] As will be seen in Section IV of this chapter, the hypothesis that the human race is made up of different races is not in harmony with the findings of science.

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[8] *Genesis* II. 7.

[9] de Sinéty, *Études*, June 5, 1928, p. 557.

Apart from the religious phases of the question of evolution, it may be said that the evidence pointing to the bodily evolution of man is very interesting but incomplete. Dr. John M. Cooper says: "The theory is far from being scientifically demonstrated. To claim it is so proven is to go a long distance ahead of the facts available. But the theory cannot be brushed aside with a wave of the hand as if it were mere guesswork or a baseless fancy. When this is done the biologist has a perfect right to object."[10] Until further data are brought to light, therefore, it is impossible to assert or deny that the body of man has evolved from an ancestral animal form. This may appear to be an unsatisfactory answer to the question regarding the evolutionary or non-evolutionary origin of the human body, but it is the only one that is warranted by the present state of scientific knowledge.

II. THE HUMAN SOUL

That which gives man his title of "man" is his soul. By the soul is meant the inward vital principle, which enables man to think, to make free choices, and to live eternally. It is the possession of the powers to do these things that raises man immeasurably above the level of the brute. The materialistic evolutionists,—that is, those who claim that man in his entirety, body and soul, is merely a development from the anthropoid ape,—deny that there is any essential difference between animals and man. The only differences which they admit are those that arise out of the superior development which man enjoys as compared with the animals. As will appear from the following explanation, however, the difference between men and animals is more than one of degree of development. The difference consists in the human soul, which is possessed by man alone.

A. Social Significance of Belief in Dignity of Soul.—The fact that every man, woman, and child possesses a spiritual soul is one of the deepest social significance; for the entire social structure rests on the tacit assumption that every person possesses within him a sacred principle of being. There is no people that does not recognize the soul as the source of personality. They could not live together with one another if they did not admit this truth. Every society assumes that the soul is the source of all the rights and immunities of human beings. If society were to deny the soul, it would be forced to reject such maxims as "right is superior to brute force," or "murder is wrong," or "a man may not be unjustly deprived of his property." Lawlessness, chaos, and anarchy would necessarily follow.

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[10] *Religion Outlines for Colleges*, Course II, p. 27.

It is true that not all rights are *directly* rooted in the soul. Some are more immediately related to it than others, but all derive their ultimate sacredness from the fact that their possessor is a person. Thus a person's right to his life is closer to him than his right to his purse. Nevertheless, the latter right is ultimately based on the fact that the ownership of property is necessary for the proper development of one's faculties, in human society. An example may illustrate this truth. An automobile owned by Mr. Brown may not be taken from him, or driven without his permission. Society insists that his right of ownership is inviolable, and that it may not be infringed upon by others. But Mr. Brown himself is far more inviolable than the automobile, because he may sell the automobile or give it away. He cannot, however, dispose of himself in this manner. For example, he cannot sell himself into slavery in the sense that he gives another absolute dominion over his being. Again, Mr. Brown may own a full-blooded Airedale. No one can prevent him from selling the dog, because a dog is property. But it is quite different with Mr. Brown himself. He is not property. It is not right to say that he owns himself in the same way that he owns the dog. He is inviolable even against himself. He may not maim himself, or take his own life. These restrictions are placed on Mr. Brown by the fact that the inner principle of his being, his soul, is basically the property of his Creator, and is, according to the divine plan, sacred and an end in itself. Society fully recognizes this truth and places the same restrictions on all other persons, by obliging them to respect Mr. Brown's person, and all the rights and immunities necessary for its development.

The sacredness of every person flows from the fact that he possesses a human soul, differing essentially from the vital principle in the animal, which is sometimes loosely referred to as a soul. It is interesting to see how the belief in the essential difference between the human soul and the vital principle in animals, is confirmed by everyday experience and the findings of science. Some of the more important evidence from experience and scientific research will now be examined.

B. Divine Origin of the Soul.—Every person will find on analyzing his mental acts that they are of two kinds. There is first the type of act which is closely linked with sense-perception. For example, when one examines a lead-pencil he finds that the wood is harder than the eraser, at the tip. His sense of touch tells him this. But there is a second class of mental acts which every person is capable of performing. These acts require the exercise of other faculties than those of the senses. Thus the abstract ideas which one forms of goodness, virtue, and beauty, call for the operation of powers over and above those employed in hearing, seeing, or tasting. Sense knowledge is the perception of individual things, one at a time, whereas abstract knowledge is the knowledge of many, perhaps thousands of things included under one universal term.

Cicero applied this distinction to animals, in his famous letter to his son, in 45 B. C., and the application is as valid today as when it was originally made. He says: "But the most marked difference between man and beast is this: the beast, just as far as it is moved by the senses and with very little perception of past or future, adapts itself to that alone which is present at the moment; while man—because he is endowed with reason, by which he comprehends the chain of consequences, perceives the causes of things, understands the relation of cause to effect and of effect to cause, draws analogies, and connects and associates the present and the future—easily surveys the course of his whole life and makes the necessary preparations for its conduct."[11]

Thus far science has not been able to show that the power of abstracting, as explained above, is not exclusively man's. De La Vaissière reviews the experiments made with animals, by Piéron, Claparède, Vaschide, Watson, Bechterow, and others, and concludes: "The student of experimental psychology cannot ascertain in a direct manner whether animals are or are not endowed with intelligence."[12] Intelligence implies the capacity to form abstract ideas, and, in addition, the much more complex process of combining them to form judgments. As just stated, the evidence from animal psychology does not warrant the assertion that the animal can conceive abstract ideas. At most, the evidence shows that the animal experiences sensations, or what are less exactly called mental images.[13] It is to be noted that there is a very important distinction between the mental image and the abstract idea. The latter is of a much higher order than the former and of an entirely different character. While the animal has sense-knowledge without the power of abstracting, man has sense-knowledge plus the power of abstracting. In other words, sense-knowledge is common to animals and man, whereas the powers of abstracting, and of forming judgments are prerogatives exclusive and peculiar to man.

If the distinction between sense-knowledge and abstract knowledge is properly understood, it is easy to grasp the fundamental differences between the psychic capacities of man and those of animals. Man's capacity for abstract knowledge is shown especially in his ability to use articulate language and to manufacture tools, neither of which abilities is found among animals. Professor Boas says: "The differences [between the animal and the human mind] are so striking that little or no diversity of opinion exists. The two outer traits in which the distinction between the minds of animal and of man finds expression are the existence of organized articulate language in man, and the use of utensils of varied application. Both of these are common to the whole of mankind. No tribe has ever been found that does not possess a well-organized language; no community that does not know the use of instruments for breaking, cutting, or drilling, the use of fire and of weapons with which to defend themselves and to obtain the means of living. Although means of communication by sound exist in animals, and although even lower animals seem to have means of bringing about coöperation between different individuals, we do not know of any case of true articulate language from which the student can extract abstract principles of classification of ideas."[14] It follows, therefore, that so far as scientific experiment has been able to discover, abstract thought, as manifested in articulate speech and in the manufacture of tools, is possessed by man alone.[15]

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[11] *De Officiis*, The Loeb Classical Library, Trans., p. 13.

[12] *Elements of Experimental Psychology*, p. 25.

[13] Carr-Saunders, *The Population Problem*, p. 50.

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There are, in addition, other very important differences between men and animals. The most fundamental is the consciousness of the distinction between right and wrong. This consciousness is experienced by man alone. Among most peoples, it includes a sense of accountability to a Higher Being, or, at least, to some supernatural force, who rewards good actions and punishes evil. Among some peoples it is seemingly little more than a subconscious fear that a wrongful act is opposed to the social code, which, if violated, will bring retribution on the offender. True, the full significance of the moral aspects of right and wrong is apparently not grasped by all peoples. Nevertheless, whatever the sanction, or whatever the subjective norms of good and evil actions, all peoples possess a sense of responsibility for conduct.

The consciousness of responsibility for deliberate acts is possessed by all individuals, because of their knowledge of the natural law. Objectively considered, the natural law is the Divine Will. It consists of general precepts, such as: good is to be done and evil avoided; murder and adultery are wrong; parents are to care for their children;

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[14] *The Mind of Primitive Man*, p. 96; see also Goldenweiser, *Early Civilization*, p. 3.
[15] Moreaux, *Les Confins de la Science et de la Foi*, T. II, pp. 213–234.

and children are to obey and reverence their parents. The acts which these precepts forbid are recognized by all peoples as unnatural. Every person has some knowledge of the natural law, even though his notions of its provisions are very faint or distorted. The natural law is not the creation of a king, senate, plebiscite, or public opinion. These agencies merely define it, and individuals recognize and acknowledge it in the definitions which are thus made.

The recognition of the difference between right and wrong, however grotesque the application may appear in given actions, is found among all peoples, even among the most primitive and uncivilized. Such is not the case among animals; consequently, they are not properly spoken of as immoral or moral in their conduct, but simply unmoral. Animals do not hold themselves to standards of decency or correctness, because they lack the inner sentiment or knowledge telling them that certain actions are out of harmony with a fixed law of conduct. Human beings, on the other hand, even the most depraved in civilized society or the most uneducated in savage society, are aware of a fixed body of precepts to which they feel they should conform. Thus all primitive tribes set up certain taboos or prohibitions, which they enforce by fines, penalties, and even death, because they regard these taboos as necessary for the welfare of the tribe. For example, the Yukaghir wife of Siberia may not look upon the face of her father-in-law or of her husband's elder brother; and the Kirgiz woman is not allowed to utter the names of her husband's father or elder kinsmen.[16] Taboos of various kinds are found among all savage peoples. Very frequently they represent the savage's effort to maintain the natural virtues of justice, purity, fortitude, and filial devotion within the tribe.

Another outstanding difference between man and animals is the natural inclination among all peoples, including the most primitive, to give expression in some form or other to religious sentiments. Nothing that may be interpreted as an act of religion can be observed among animals. While the religious practices of a savage tribe may appear fanciful or even ludicrous, or may even degenerate into the worship of ancestors, or of many deities, the religious tendency is found among all peoples. Every known people professes some belief either in one God, many gods, animism, or manism.[17] Formerly, e. g., it was thought by some that the tribes of Tierra del Fuego were entirely without religious beliefs of any kind; yet only recently it was discovered that these tribes possess a remarkable belief in one God and well defined religious ceremonies.

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[16] Lowie, *Primitive Society*, p. 84.

[17] *Primitive Man*, Quarterly Bulletin of the Catholic Anthropological Conference, Washington, D. C., Vol. II., Nos. 3 and 4, p. 36.

Other psychical differences between animals and men may be briefly referred to here, such, for example, as the almost total absence of progress among animals from the beginning of history. From the period of prehistory up to the present, animals, even those which have been close to man, such as the dog and the horse, have remained practically in their original condition. Man, on the other hand, has made tremendous cultural progress, especially in the liberal and industrial arts, in inventions in the fields of electricity, steam, and medicine; and, in general, in an ever-increasing control over the forces of nature. The essential differences, however, have been dwelt upon sufficiently, and it is not necessary to add others of less importance.

C. Uncivilized Peoples Not Semi-Animals.—Since there is such a wide chasm separating man and the brute creation, it may be asked: Are not some of the living uncivilized peoples so close to animals that they are part animal and part man? If a series of steadily ascending gradations is arranged, beginning with the higher animals and running through the uncivilized tribes up to civilized men, will it not be found that there is a difference only in development, and not in nature, among them?

In the light of careful scientific investigation these questions must be answered emphatically in the negative. As was seen above, all primitive peoples, however low their culture, are found to possess a sense of personal responsibility—an exclusively human trait. Moreover, all primitive peoples believe in a soul that lives after death. Clark Wissler says: "The belief in a soul or spiritual counterpart of some kind, that defies death, is universal."[18] Finally, all primitive peoples, including the very lowest in culture, profess some form of religious belief, whereas no indication of religion can be found among animals. These two traits, namely, personal accountability and religious belief, are possessed by the lowest savages in common with civilized man. In like manner, it is found that the mentality of the lowest primitives is essentially the same as that of civilized man. This statement will be examined at somewhat greater length.

The differences in the mental processes of the savage and those of civilized man are divided by Rev. Dr. John M. Cooper into two classes: first, differences in degree, and, secondly, differences in kind. Of the first he says: "That there may be differences in mental caliber between the three major races, the Caucasoid, the Mongoloid, and the Negroid, and that there may be differences between subdivisions within any one of these three races, is quite possible, or even probable." He then examines this statement according to the three criteria, viz., cultural attainments, achievements of children, and intelligence tests. Using these criteria, he concludes, after making the necessary allowances, that the differences in degree are not very marked. As to the question of differences in kind between the mental processes of civilized and uncivilized man, he says that he does not know of a single field student of anthropology who holds that there is an essential difference between savage and civilized mentality.[19]

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[18] *Man and Culture*, p. 77.

The conclusions of other anthropologists are the same. Thus, Professor Goldenweiser considers particularly the use of arithmetic and language among the lower tribes. Taking the peoples of Central Australia for illustration, he says that these races are unable to count beyond four or five, but for that reason are not necessarily deficient in mentality, nor do they possess a mentality essentially different from civilized man. A large allowance, he says, must be made for the civilization setting of the lowest cultured peoples. These peoples have no fixed possessions and carry on no trade with others, and hence have no need of a medium of exchange corresponding to European or American money. Consequently, they have no need of an elaborate and complex system of counting.[20]

Similarly, although these peoples speak very primitive languages, they have a very complex system of grammar, and vocabularies consisting of several thousands of words.[21] It is to be noted that the ability to classify words into groups according to their meanings, and to form judgments, requires the power of abstraction and generalization, which is possessed by man alone. Uncivilized peoples are fully capable of such processes, and, therefore, are not inferior to white men in essential mentality. Professor Boas writes that scientific investigation cannot demonstrate that mental inequality exists between the white, black, and yellow races of the world. While admitting that there is no positive proof to show mental equality among all races, he declares that up to the present time essential inequality has not been proved. He says:

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[19] *Primitive Man,* Quarterly Bulletin of the Catholic Anthropological Conference, Washington, D. C., Vol. II, Nos. 1 and 2, pp. 7–16.

[20] *Early Civilization,* p. 10.

[21] *Ibid.,* p. 11.

"I grant willingly that proof of mental equality has not been adduced. I grant, furthermore, that family strains and inbred small groups may show characteristic mental habits. But I insist that nobody has ever given satisfactory proof of an inherent inequality of races, and that the final solution of this problem still has to be found." [22] Thus the assumption that there are certain semi-human races intermediate between animals and men, must be rejected as purely hypothetical and without scientific foundation.

III. THE HUMAN SPECIES AND ITS DIVISIONS

The human family numbers about 1,900 millions.[23] It is divided into races according to stature, color of skin, diameter of hair, nose formation, shape of skull, and protrusion of jaws. There is considerable difference of opinion among anthropologists in classifying the various races of the human species; some finding only two races; others, three; and others, as many as five.[24] A commonly accepted classification is that which divides the human family into three primary races: the Caucasoid, or peoples possessing white characteristics; the Mongoloid, or peoples possessing yellow or red characteristics; and the Negroid, or peoples possessing black characteristics. This, however, is a basic division, and each of these races embraces various subdivisions. Moreover, there is considerable discussion as to whether the Indo-Australian peoples should be included within one or other of the three primary races just named, or whether they form a fourth race distinct from the others.

The Caucasoids, numbering about 900 millions, constitute nearly one-half of the world's population. Their chief characteristics are as follows: in stature they are unusually tall or above the average; the skin color shades from pure white to deep brown or almost black; the texture of the hair is wavy; the nose is narrow; and the jaws are slightly protruded. The Caucasoids are usually divided into four chief subdivisions, the Nordic, the Alpine, the Mediterranean, and the Hindu. The first three are found almost entirely in Europe. The Nordic race occupies the territory running from East to West in Northern Europe, and in addition forms the dominant blood of the British Isles. The Mediterranean is found in the countries bordering on the Mediterranean Sea, including

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[22] *The Child, the Clinic, and the Court*, p. 187.

[23] League of Nations, *International Year Book*, p. 15.

[24] For an elaborate classification see Haddon, *The Races of Man*, pp. 15–36.

Northern Africa and Asia. The Alpine inhabits the area between these two races. The Hindu branch occupies India, and bears a close resemblance to the Mediterranean. This classification does not take into account the white peoples of the New World, inasmuch as they are recent immigrants, and represent a mixture of the original Nordic, Alpine, and Mediterranean stocks of Europe.

The Mongoloids number about 730 millions, and form something over one-third of the world's population. They are below the average in height, except one branch, the American Indians, who are generally above average size. The skin color of the Mongoloids varies from a light tan to a blackish brown; the hair is lank and straight; the nose structure is medium between narrow and broad; and the jaws show a medium tendency toward protrusion. The Mongoloids include the peoples of Northern and Eastern Asia, the Malaysians of the East Indies, and the American Indians and Esquimaux, none of whom shows marked bodily deviations from the general Mongoloid type.

The Negroids number approximately 272 millions, forming about one-seventh of the human race. They vary widely in stature, ranging from very short, as in the case of the negro pygmies, to tall, as in the case of the African Bantus. The skin color is black in nearly all of the negroid races; the hair is woolly or frizzy; the nose is broad, and at times almost flat; and the jaws generally protruded to a marked degree. The Negroids are divided into three branches, the African Negroes, the Oceanican Negroes, and the Negritoes or Pygmies, who are found in Central Africa, Southeastern Asia and New Guinea. A fourth branch is sometimes added, namely, the Bushmen and the Hottentots.[25]

The foregoing races, then, namely, the Caucasoid, the Mongoloid, and the Negroid, may be considered as the three main divisions of the human species. As stated above, however, there is no agreement among anthropologists as to whether the Indo-Australian peoples form a separate race, or whether they are branches of either the Negroid or Caucasoid stock, or of both. For technical details the reader is referred to field studies of these peoples, such as Spencer's "Native Tribes of Australia," and Evans' "Ethnology and Archaeology of the Malay Peninsula."

IV. ONENESS OF THE HUMAN RACE

Although the human family is divided into several branches, it possesses a well defined unity, that is, it is one in species—*homo sapiens.*

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[25] Kroeber, *Anthropology,* Chap. III.

This means that all human beings, of whatever degree of civilization, or however devoid of it, are endowed with certain faculties that are not shared by any animals; and that there are no peoples who are semi-human and semi-animal. From this it follows that even the most primitive tribesman in Central Africa or Australia has the same essential characteristics of a human person as the most cultured man or woman in Europe or the United States.

The evidence for the unity of the human species consists of two sets of data, one physical, and the other psychical. The first set includes the fact that all civilized and uncivilized peoples uniformly possess the same substantial physical traits. The more prominent of these traits are body temperature,—98.4 to 98.6 degrees; brain size,—approximately 1,400 cubic centimeters; and life span,—seventy to eighty years. These, and the more obvious traits, such as the adjustment of the anatomy to erect posture, are common to all peoples. The most conclusive physical proof of the unity of the human species, however, is the fact that interracial fertility is possible among all the races of the world for an indefinite number of generations. There are numerous examples of this phenomenon in the indefinitely fruitful intermarriages of the Spanish explorers with the native Indians of South America and Mexico; of Whites and Negroes in the United States; and of Whites and Japanese on the Pacific Coast. Such interfecundity points to the physical oneness of the human species.

The second set of data includes the fact that there is no tribe or race that does not possess the psychical gifts which are common to all other tribes or races. The same instincts, emotions, and powers of abstraction, not to mention the consciousness of personal responsibility, are discernible among high- and low-cultured peoples alike. It may be repeated that the power of abstraction, and the still higher power of recognition of duty, are the exclusive prerogatives of man, and that it has not yet been shown that they can be exercised by even the most highly trained animals.

The essential unity of the human species is quite generally held by scientists at the present time. Whether the human family, as it exists today, descended from a single pair or from a single group, is an entirely different question, and one about which there are no trustworthy scientific data. The scientist, therefore, refrains from passing judgment on this question. The teachings of Christianity, however, assume the descent of the human species from a single pair. This is implicit in the Catholic doctrine of Original Sin and the Redemption.

V. AGE OF THE HUMAN RACE

Having seen that the human species is one, it is in place to ask: How old is it? This question is involved in much obscurity, and probably will ever remain so. Goury, the French paleontologist, says: "The infancy of the human race is like that of each one of us. We are born without knowing it: when we come to maturity, we have only faint recollections of our earliest years; and we should be completely ignorant of the circumstances of our entrance into life if those who were witnesses had not revealed them to us."[26] Whether or not the human family existed much before 30,000 years ago, is a matter of guesswork or speculation. Even the period of history from 5000 B. C. to 2500 or 2000 B. C. is involved in considerable obscurity and contradiction. Doubtless, as science advances, more definite estimates will be warranted.

There are but two possible sources of information upon which to base calculations as to the age of the human family. The first source is historical; the second is geological. It should be noted that neither the Bible nor the Catholic Church teaches any system of chronology. The problem of the age of the human family, like that of the age of the earth, is a purely secular one, to be solved by secular science working with scientific data.[27]

Taking the historical source first, it is to be observed that history includes not only the written parchments left by peoples of antiquity, but also the inscriptions on monuments, tombs, and burial urns, together with their legends, traditions, and folklore. As will be readily understood, however, legends, traditions, and folklore are extremely unreliable, and difficult to verify. Nations, like individuals, are prone to exaggerate their past achievements; and the exploits of their tribal heroes are easily magnified when handed down from one generation to the next. The same applies to a tribe's antiquity. For example, the Chinese legends which hold that there was a high degree of civilization in China thousands of years before Christ, are not supported by factual evidence, and are commonly dismissed as pure fables. The same is true of India. De Morgan says of these peoples: "We shall speak neither of India nor of China, whose local legends exaggerate their antiquity at will. Their civilizations are not so ancient as is generally supposed. That of China dates from seven or eight centuries before our era, but its prehistory is still absolutely unknown. . . . Indian history begins very late, only, in fact, a few centuries before our era, with the conclusion of the campaign of Alexander the Great.''[28]

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[26] *Origine et Évolution de l'Homme*, p. 5.

[27] Mainage, *Les Réligions de Préhistoire*, p. 54.

The civilization of Egypt and Western Asia is of far greater antiquity. The Egyptian inscriptions, checked against astronomical calculations, point to a period of advanced civilization as early as 4200 B. C.[29] The Babylonian and Assyrian inscriptions also indicate a very ancient civilization, flourishing about 3,000 years before the beginning of the Christian era.[30]

Within recent years, attention has been turned to the archaic civilizations of the Mayas in Central America, and the Peruvians and Bolivians in South America.[31] For example, excavations in the ancient cities of the Mayas reveal a remarkably ornate architecture, a well developed calendar system, and the employment of the zero in numerical computations, together with a fairly exact knowledge of the celestial bodies. The more conservative estimates place the beginnings of this civilization at approximately 1,000 years before Christ.

Thus on the basis of the data furnished by parchments, and by monuments and similar non-documentary history, one would not be warranted in placing the civilization of any known people at a date earlier than 4200 B. C. It is to be observed, however, that this date merely shows that a fairly high degree of civilization prevailed not later than 4,200 years before Christ. It does not indicate how much time elapsed from the creation of the first human pair up to 4200 B. C., i. e., the time when their scattered descendants succeeded in building up a fairly high form of culture in Egypt and Mesopotamia. For the length of this period, secular history has no data. For estimates it is necessary to turn to another science, namely, geology.

If the historical testimony furnished by inscriptions and checked against studies in astronomy, is obscure, and insufficient to justify anything better than rough approximations of the age of the human family, the testimony of the geologists is much more so. Nevertheless, the studies of the geologists provide a working basis for fixing a minimum age for mankind.

The geologist begins by pointing out that Europe has been covered with a moving glacier of ice during three and perhaps four long periods, each one lasting perhaps thousands of years before the glacier melted and disappeared. In like manner, the period between the melting of each glacier and the coming of the next was very long, perhaps thousands of years (Interglacial Period). Hence long periods of very cold alternated with long periods of warm or hot weather. Now, it is an established fact that man was in Northern and Central Europe during one of the glacial periods, and perhaps during the last one. This is clearly demonstrated by the fact that human remains are found in Europe in association with remains of Arctic animals, such as the woolly rhinoceros and the reindeer; moreover, the pictures of these animals are found in caves in Northern Spain and Southern France. Secondly, human remains are found in Europe in association with animals which can live only in a warm climate, e. g., the southern elephant and the hippopotamus. These facts point to the conclusion that man was in Europe when the country enjoyed a rather warm or hot climate.

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[28] *Prehistoric Man*, p. 293.

[29] *The Cambridge Ancient History*, Vol. I, p. 173.

[30] *Op. cit.*, p. 156.

[31] Pittard, *Les Races et l'Histoire*, pp. 533–559.

According to these two sets of data, human beings lived in Europe during a period when the climate was fairly warm or even hot, and also later when it was very cold. To determine the number of years, therefore, during which man has been in Europe it is necessary to compute the number of years during which the last glacier covered Europe. This is done by counting the varves, or markings in clay, which are now found on the sides of hills or lake banks. A varve is the band of detritus deposited by a glacier during one year. Part of the varve is of light or grayish color, presumably the section formed during the summer; and the other part is dark or black, the section formed in winter. It is assumed that each varve or band represents the deposit of one year, just as each ring on a tree represents a year of the tree's life. On these two premises, which are reasonably established by science, namely, that each clay varve represents a year of time, and that the human remains found in Europe are those of races who lived there at least before the last glaciation, it is estimated that human beings were in Europe not later than 30,000 years ago.[32]

If the human remains now extant are those of earlier glacial or interglacial periods than those just assumed, a great many thousands of years would have to be added to the estimate of 30,000 as the time of man's presence in Europe. In the present state of the evidence, however, it seems safe to say that man was in Europe sometime during the last interglacial period, and accordingly, as early, at least, as 30,000 years ago.

It should be repeated that these conclusions are not a source of embarrassment to the believer in the Bible. It is true that certain of the older translators have ascribed definite dates to some of the great events of the Old Testament, but these dates have not been approved officially by the Church.[33] So far, therefore, as the teaching authority of the Church and the Bible is concerned, everyone is free to base his conclusions as to the age of the human family on purely secular evidence. As stated above, the best historical research shows the presence of man on earth over 6,000 years ago, while geology and paleontology have shown beyond serious question that he was on the earth at least 30,000 years ago.

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[32] Richarz, *The Age of the Human Race in the Light of Geology*, Quarterly Bulletin of the Catholic Anthropological Conference, Washington, D. C., Vol. I, No. 2, 1929.

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[33] Moreux, *Les Confins de la Science et de la Foi,* T. II, p. 194.

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QUESTIONS FOR REVIEW

1. What is meant by human evolution?
2. What are the arguments for human evolution drawn from Ontogeny, Morphology, Geography, Paleontology? Define the foregoing terms.
3. Is the theory of evolution derogatory to human nature?
4. Where was the probable birthplace of man? Give reasons for the belief.
5. Give the names of the principal fossil remains of man upon which estimates of the age of the race are based.
6. Show how the fossil remains of man are held to establish the animal origin of the human body. Show their limitations as such proof.
7. What light do the cultural remains of man throw on the question of human evolution?
8. Is the theory of evolution contrary to the teachings of the Church? Show the difference between treating evolution as a theory and treating it as a fact.
9. Explain the importance of considering the whole man, body and soul together, when discussing evolution.
10. What is the social significance of the soul and its integrity?
11. Outline the argument for the divine origin of the soul.
12. Show the significance of insisting that men possess consciousness of the difference between right and wrong, and that animals do not.
13. Do all primitive peoples hold distinctions between right and wrong? Do animals show such distinctions?
14. Why is it impossible to make laws for animals?
15. Give proofs, based on the expression of religious sentiments, showing the difference between human beings and animals.
16. Prove that uncivilized men are not semi-animals.
17. Define races. What are the various classifications of races? Give the number and distribution of each.
18. What are the proofs of the oneness of the human race?
19. How are the doctrines of Original Sin and the Redemption related to the oneness of the human race?
20. What are the various beliefs as to the age of the human race?
21. Discuss the statement: The problem of the age of the human species, like that of the age of the earth, is a purely secular one.
22. Proofs of the age of the race are historical and geological. Explain.
23. Where is the main historical evidence for the antiquity of the race found?
24. Explain the proofs of geology as to the age of the race.
25. What is the most probable age of the human race?

CHAPTER II

Human Personality

1. SIGNIFICANCE OF HUMAN DIGNITY

A. The Value of Human Life—B. Human Dignity—C. Human Dignity Possessed by Human Beings Alone—D. Human Dignity Derived from the Purpose of Human Life—E. Human Dignity Not Possessed by Animals—F. Human Dignity Not Inherent in Humanity—G. Human Dignity the Basis of Human Equality—H. Human Dignity Not Destroyed by Mental or Physical Defects

II. SOCIAL ASPECTS OF THE PRINCIPLE OF HUMAN DIGNITY

A. The Individual's Attitude toward Himself

B. Social Effects of the Disregard of Human Personality in Greece and Rome

C. Groups in Modern Society Suffering from a Disregard of Human Dignity

I. SIGNIFICANCE OF HUMAN DIGNITY

A. The Value of Human Life.—What is the value of human life? Is it five thousand dollars, the amount awarded by a jury to a mother for the death of her nineteen-year-old son in an automobile factory? Or, is it twenty thousand dollars, the amount awarded a wealthy widow for the death of her husband in an elevator accident in an office building? In the former case, the sum of five thousand dollars was allowed because the boy had been earning seventeen dollars per week, and it was computed that his future earning power was approximately equivalent to five thousand dollars. In the latter case, however, this rule could not be used. The yearly income of the wealthy business man was fifty thousand dollars, and yet the allowance for damages was only twenty thousand dollars. No rule of earning power could be used in his case, and the sum of twenty thousand dollars was felt to be some sort of a compensation to his widow and children.

These illustrations will serve to show how readily one thinks of human life in terms of money; and, what is particularly pertinent here, how impossible it is to give any adequate rule for measuring life in money values. From the Christian point of view, human life cannot be measured in terms of a money equivalent. According to Christian teaching, a human being has intrinsic value. This means that a human being is valuable in himself, apart from any relation to other human beings or to material things. To illustrate, a bar of gold at the bottom of the ocean is without value, because it is out of all relation to human use or enjoyment. A human being, on the contrary, even though he is cut off from all relation with other human beings, for example, Robinson Crusoe on his island, retains his value, because it is intrinsic to him. The reason for the difference between the bar of gold and the man is to be sought in certain inner endowments which are possessed by the man but not by the metal bar. These endowments are the powers of intelligence and free choice. They are the endowments of a human person, whose principal element is a spiritual soul.

The powers of intelligence and freedom of choice are possessed by man alone, and are not found in any being in the world outside of man. These possessions invest man with the quality of intrinsic value. By means of them, he is enabled to act intelligently and freely in deciding between right and wrong, and thereby merit everlasting happiness. Obviously, he could not merit happiness if he did not understand what he was doing, or if he were not free in his actions. Thus the powers of thinking and willing are means to an end, namely, happiness after death. Accordingly, the ultimate basis of human dignity is man's eternal destiny.

Since animals and material objects lack the high destiny of human beings, they are without inherent worth. Consequently, no animal or thing, however much it may be prized, for example, a blooded racehorse, a rare painting, an old violin, an automobile, precious jewelry, or gold or silver money, has intrinsic value. These things have value only because they may be of use or pleasure to their owners, or because their owners can exchange them for things that others possess. In a word, their value is purely relative, or extrinsic.

The value of a human being is called intrinsic, because it proceeds from the person himself, and is not derived from other persons or things. Because of his intrinsic value, every person possesses the quality of inviolability. This quality forbids others from harming or injuring his person in any way. It is in this sense that the term *inviolability* is used throughout the present chapter.

B. Human Dignity.—Man's special endowments give him a place of preëminence in the world above all visible created things, and are the basis of what is usually called human dignity. The term, dignity, is akin to the Latin, *decus,* honor or ornament. In its commonest acceptation, dignity means a position of trust and responsibility, for example, the dignity of the presidency, a bishopric, or a governorship. It implies that the one who holds a high position commands the esteem and respect of his fellow men. Ordinarily esteem and respect are based on some unusual services performed by their possessor in behalf of others. But extraordinary intellectual or artistic accomplishments may also be the grounds for esteem and respect. As a rule, the great achievements in art, literature, or science, have been wrought by persons possessing extraordinary innate gifts which are not shared by the rest of mankind. This analogy, although imperfect, illustrates the position of dignity and honor which is occupied by every human being as compared with the rest of material creation. Man enjoys a place of honor and respect in the world, and exercises dominion over all creatures inferior to him, because he is the recipient of certain endowments which were not conferred on animals and non-living creatures. In a word, the Creator has placed in man certain powers and capacities to do things, that He has not placed in the brute and non-sentient creation. As shown in the preceding section, these powers and capacities are given man in order to enable him to merit eternal happiness. Consequently, the ultimate basis of human dignity is the spirituality of the human soul.

C. Human Dignity Possessed by Human Beings Alone.—It cannot be repeated too often that every human being possesses certain powers which mark him off from the rest of creation, and which give him a place of preëminence among earthly beings. As a consequence, he holds a place of honor above the animal and plant world, in the sense that he is immeasurably more valuable than they, and is able to adapt them to his needs. But more than this, he holds a title to the respect of his fellow men, in the sense that they may not use him as property, or subordinate him to their desire for property. This is done when men oppress their fellow beings by keeping what rightfully belongs to them, and thereby prevent them from living normal human lives.

The principle that man occupies a position of dignity in the universe is one of far-reaching consequences. On it depend the order and happiness of society. The disregard of this principle is at the bottom of the great problems which are commonly grouped under the general heading of the "social question." Because of the importance of the concept of human dignity, it will be examined at length, with special reference to the fact that it belongs to human beings alone.

D. Human Dignity Derived from the Purpose of Human Life.—In order to grasp the true character of human dignity it is necessary to understand the nature of the human person. The nature of a thing can be understood by telling what it is for. For example, the nature of a fountain pen is best explained by saying that it is a little rubber barrel, fitted with a gold pen, and intended for writing. A book is made to be read, a radio set to receive and reproduce music and speeches, a garment to be worn, a watch to indicate time, and thus all through the entire range of manufactured articles. In each case the inner character of the article and its peculiar construction are determined by the function which it is intended to perform. The same applies to man. His internal character and structure are fashioned to serve the purpose for which he was created. This purpose is to honor God, Who created him. God has disclosed this purpose to man by Revelation, that is, through the Old Testament and through His Son, Jesus Christ. Man also perceives the true purpose of his being in his inner consciousness. There is no people known that does not practise some form of religious ceremony, and thereby acknowledge its dependence on God or, at least on some supernatural power.

Finally, if it is denied that man's purpose is to honor God, it must be admitted that man has no reason whatsoever for existence. This runs counter to the consciousness of all human beings, who toil and strive from day to day with the deep conviction that they have a purpose in life. Moreover, it is repugnant to right reason that Divine Providence acted without any design in placing man in the world. This would be entirely inconsistent with His nature as an all-knowing and beneficent Being.

Man, therefore, like the tools or instruments which he makes with his hands, has a reason or purpose for existing. This reason or purpose is to know and love and worship God. While animals and material things honor God indirectly, by serving the needs of man, man honors God directly, by using his faculties of intellect and will in worshiping God and exercising charity toward his fellow men.

E. Human Dignity Not Possessed by Animals.—Because of his high prerogatives, man holds the place of preëminence on the earth. The dignity which he possesses is his alone. It is not shared by the animal world. Cattle and horses and sheep are properly called "live stock," for they are merely living property—things that can be bought and sold. It would be a serious error, and one prolific of grave evils, to say that animals are entitled to the respect and inviolability possessed by human beings. This error leads to exaggerated and ludicrous claims for the rights of animals. For example, the anti-vivisectionists are opposed to scientific experiments on living animals, carried on for the purpose of observing the effects of malignant germs, or for discovering remedies for human disease. This position is, of course, without solid grounds in reason, for animals were created to serve the legitimate use and convenience of man. The bodies of animals are, therefore, used legitimately by man not only for scientific purposes, but also to provide him with food, clothing, and other needs.

Moreover, man may put animals to death, if they are harmful to him, or if they interfere with his well-being and comfort. This, of course, does not justify unnecessary cruelty to dumb beasts. In fact, many States prohibit all unnecessary cruelty to animals. This prohibition, however, is not based on the innate rights of animals, but rather on man's obligations to himself. Excessive or unwarranted cruelty to animals serves to debase and deprave the person who practises it. On the other hand, affection for and cultivation of animate creatures, frequently has an elevating effect on young and old. All persons owe it to themselves, therefore, to refrain from unnecessary cruelty to animals; but, to repeat, not because animals are possessors of rights, but because human beings possess a dignity which must be upheld.

F. Human Dignity Not Inherent in Humanity. —It is likewise an error, or, at least, it is highly misleading, to say that either the community or humanity in general, possesses human dignity. Neither the community nor humanity is invested with the same dignity and prerogatives that are inherent in the individual human being. The community is a collection of persons; humanity is an abstraction. Neither is identical with any particular person. Moreover, the term, *humanity,* is very vague and has many meanings. For example, in the phrase, "he served humanity," it signifies a large number of human beings, perhaps all the citizens of a state, or of all the states of the world. Even in the latter sense, humanity is not clothed with human dignity. Such applications of the term should be avoided as they lead invariably to confused thinking. To repeat, it is only the individual man, woman, or child who is invested with the sacred and inviolable character of human dignity.

G. Human Dignity the Basis of Human Equality.—A corollary of the premise that every man, woman, and child possesses intrinsic value and sacredness, and that each carries within himself the purpose of his being, is that all persons are substantially equal to one another. "Everyone must count for one and nobody for more than one." This truth is affirmed in the second paragraph of the Declaration of Independence:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness.''

Equality of being, however, is not the same as equality of capacity. For example, of two college men, one may be an expert football player, and the other may scarcely know the rules of the game, to say nothing of being able to play it. This difference in skill may or may not be an index of more manliness in the one than in the other, but it assuredly does not change their fundamental equality as men. Or, again, A may be six feet three inches tall, and B may be only four feet tall. While there is considerable difference in their heights, obviously there is no essential difference in their basic nature as human beings. The same holds with reference to mental capacity. A greater or less degree of intellectual ability does not affect the nature of the intellect. One student may find Latin and French very easy; another may find them downright drudgery. Assuming an equal amount of application in the two students, there is clear evidence of a wide difference in talent. But the deficiency in the plodder, which is perhaps offset by certain aptitudes not possessed by his fellow student, does not subtract from his substantial mentality. Nor would one be justified in saying that the brilliant student has mentality, whereas the industrious but unsuccessful student, has not. Consequently, while there may be wide variations in mental capacity among persons, it does not follow that there are differences in kind in mentality itself.

These examples will illustrate the diversified yet universal character of human nature. In other words, although individuals differ as to sex, age, color, and physical and mental ability, they all possess an identical human nature, and the dignity and inviolability inherent in it. Thus an individual Indian living on one of the government reservations is in the most accurate sense of the term a human being, possessing the same innate worth and inviolability as the most cultured man or woman in the university district of New York or Chicago. The same holds true of the most illiterate Negro on a Southern plantation, of any one of the teeming millions in the Canton district in China, or of the numerous barbarian tribes of Bushmen in South Africa. Young and old, men and women, the sick and the healthy, the normal and the handicapped, all possess the same essential human dignity.

H. Human Dignity Not Destroyed by Mental or Physical Defects.—It is necessary to insist that because a person is deficient in physical or mental equipment, he does not thereby lose the title to his intrinsic worth and inviolability. Consequently, the physically deformed, the helpless aged, the deaf and dumb and blind, and the mentally defective, do not forfeit their right to be treated as human beings. There are those who deny this principle, by advocating practices which are directly opposed to the sacredness of human life. Thus the proposal of painlessly putting to death the "unfit," the feeble-minded, or those who are suffering from an incurable disease such as cancer, rests on the false assumption that these afflicted unfortunates have no higher claims to existence than brutes, which may be put to death merely for the benefit or convenience of society. The essential wrongfulness of such schemes consists in the fact that they disregard the sacredness of human personality, which, although impaired, is in no sense destroyed by mental or physical incapacity.

An additional objection is this: If proposals of this kind were to be put into effect generally, life in society would be impossible. To carry out these proposals public officials would have to be invested with power to decide who is fit and who is not. To give public officials such power is to give them control over life and death. This would place the life of every man, woman, and child in jeopardy. A moment's reflection will show that this is true. One unscrupulous physician or commissioner, chosen for this inhumane work, would be sufficient to imperil the lives of the whole community, or at least, to keep it in a constant state of terror and uncertainty. The life of no member of the community would be entirely safe and there could be no true exercise of the right to "life, liberty and the pursuit of happiness."

II. SOCIAL ASPECTS OF THE PRINCIPLE OF HUMAN DIGNITY

A. The Individual's Attitude toward Himself.—The unqualified acceptance of the principle that every human being possesses human dignity and is an end in himself, is the only guarantee of order and happiness in society. In the first place, every individual must have a wholesome respect for, and appreciation of, the value of his own personality. Unless he is deeply imbued with these sentiments toward himself, he lacks the necessary incentives for noble and humanitarian conduct towards others.

The *Spectator* writes:

> I am fully persuaded that one of the best springs of generous and worthy actions, is the having generous and worthy thoughts of ourselves. Whoever has a mean opinion of the dignity of his nature, will act in no higher a rank than he has

> allotted himself in his own estimation: If he considers his being as circumscribed by the uncertain term of a few years, his designs will be contracted into the same narrow span he imagines is to bound his existence. How can he exalt his thoughts to any thing great and noble, who only believes that, after a short turn on the stage of this world, he is to sink into oblivion, and to lose his consciousness for ever?[1]

Whoever accepts the principle of human dignity and destiny as applying to himself must, of course, admit that it applies to everyone else. Ordinary fairness dictates that each one accord to others the same measure of essential personality that he claims for himself. This is equivalent to saying that no one may regard any of his fellow human beings merely as a means to his own end.

B. Social Effects of the Disregard of Human Personality in Greece and Rome.—1. There were times when a nice sense of fairness toward others did not exist. In ancient Sparta there were thirty thousand free men and three hundred thousand helots. Even Aristotle regarded the slave as an "animated tool." In Rome, with a population of one and one-half million inhabitants, between seven and eight hundred thousand persons were slaves, and the proletariat, or the very poor, but free citizens, numbered only about four hundred thousand.[2] The slaves were Greeks, Syrians, Copts, Teutons, and Gauls, who either had been captured in war or born in slavery. While some of them occupied high positions in Rome, and were employed as teachers, physicians, and managers of estates, the vast majority were kept at the most menial tasks. As a class, the slaves had no standing at law, and were regarded as inferior beings from whom Jupiter had withheld the essential qualities of human persons. The brutal treatment accorded to many slaves in Greco-Roman times can, therefore, be readily understood. It was a practical application of the denial of the sacredness of human personality.

Bishop Shahan writes:

> As the life of the slave was precarious, the capital, as well as the interest of his cost [one hundred dollars for a man slave, and fifty dollars for a woman slave] must be soon gotten out of his carcass—he was more quickly worn out than a wheat-vessel or one of the heavy wagons that rolled daily over the blue lava blocks of the Appia Nova or the Salaria Vetus. His labor was less costly and more lucrative than that of the free man, for strikes were out of the question, and flight was punished with excessive rigor. . . . So little account was taken of the slave's personality that when, e. g., a bakery or a purple factory was the object of a legacy or an inheritance, the law took it to mean that the slaves

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[1] *Spectator*, October 31, 1711, No. 210.

[2] Shahan, *The Beginnings of Christianity*, p. 127.

connected therewith, just as the furniture of a house or the implements of a smithy accompany it without further ado.[3]

2. Other customs of ancient Rome which totally ignored the dignity of human beings, were the widespread practices of abortion and infanticide. In Rome, during the Empire, when an infant was born, it was placed on the floor at the feet of its father. If he took the child up in his arms, he signified that he intended to provide for it and rear it as a member of his family. If he left it lying at his feet, he signified that he meant to abandon it. It was then set out on the public highway to die of hunger, or to be picked up and mutilated by professional beggars and exhibited by them as an object of pity. Thousands of infants were exposed in this way every year.[4]

3. A third group who suffered during this period when the sacredness of the human person was either not recognized, or ignored, were mothers and daughters. There is not question here of the hundreds of thousands of slave women, who were regarded as mere property and treated accordingly—but of free women. Generally speaking, the position of free women in Greece was lower than that of their sisters in Rome. Greek literature abounds in mocking jests at women, which indicate the lack of esteem of Greek men for their women. Even Aristotle regards woman as man's inferior, only a little above the slave, and devoid of necessary political virtues. While too much reliance must not be placed on the descriptions of the Greek and Roman poets and satirists regarding the degradation of the women of their times, nevertheless much of what they wrote had a considerable foundation in fact.[5]

In Rome, while the free matron was united to her husband in a lifelong marriage, and was mistress of her home, she was completely in her husband's power, and might be punished or even put to death by him for trivial reasons. It is not surprising, therefore, that large numbers of Roman and Athenian matrons became Christians when they learned of the teachings of Christianity regarding womanhood. The new doctrine declared: "There is neither Jew nor Greek: there is neither bond nor free: there is neither male nor female. For you are all one in Christ Jesus." [6] Women saw instinctively that this doctrine was their only hope of emancipation. It is easy to understand, therefore, why women were the most active promoters of the Gospel of Christ.[7]

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[3] *Op. cit.*, p. 124.

[4] *Ante-Nicene Fathers*, Vol. I, p. 172; Aristotle, *Politics*, Book VII, Chap. xvi.

[5] Friedländer, *Roman Life and Manners under the Early Empire*, trans. by Magnus, p. 243.

[6] *Galatians* III. 28.

To summarize, the denial of the sacredness of human personality manifested itself in the life of Greece and Rome mainly in three ways: the institution of slavery; infant exposure and infanticide; and the degraded position of womanhood. These conditions were the practical applications of pagan thinking. As men did not grasp the fundamental difference between human persons and material things, the strong among them treated the weak as material objects. No sharp distinction was made between human personality on the one hand, and animal and vegetable matter on the other, and nothing remained but physical strength and cunning to prevent some persons from using others for their own convenience or pleasure.

Against the gross and revolting doctrine which denies the inherent sacredness of all human beings, stands the principle that every person, regardless of age, sex, or physical or mental condition, is clothed with an inviolable personality, and is an end in himself. Consequently, no person may be made a mere means to another's end. Every human being, however young or old, light or dark of skin, or weak or strong in mind or body, is protected by certain moral barriers which surround him because of the fact that he or she is a person. Correlative with these protecting barriers, there are in every other person certain restraints, either natural or acquired, which make him respect human dignity and refrain from desecrating it by death or violence. Unfortunately, however, there are certain well defined tendencies in modern society which indicate that these restraints are not operative in many persons. A brief consideration of these tendencies will prove this to be true, and, at the same time, will illustrate the indispensability of the concept of human sacredness for social well-being.

C. Groups in Modern Society Suffering from a Disregard of Human Dignity.—Generally speaking, the weaker and more dependent groups in society suffer most from the disregard of the principle of human sacredness. The phrase, "weaker and more dependent groups," includes various classes of persons, though it is not to be understood as meaning that all the persons in these groups are on the same level of weakness or dependency. It means merely that one group is in a position of weakness as compared with another, which is stronger and in a position to take advantage. The weaker groups include: (1) weak and

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[7] Shahan, p. 162; Goyau, *Ce que La Femme a Fait Pour Le Christianisme, Semaines Sociales de France,* 1927, pp. 167 *et seq.*

''backward'' nations, (2) those individuals who are unwilling or unable to use force to protect their lives or property, (3) those who are unwilling or unable to resort to trickery or dishonesty to protect themselves, (4) women, (5) children and minors, (6) the sick and defectives, and (7) the economically weak. Each of these groups will be discussed briefly in the light of what has been asserted regarding human dignity.

1. The first group includes all nations who are unable to defend themselves against unjust attacks by stronger ones. Foremost in this group are the various uncivilized or ''backward'' peoples, who, in many cases have been cowed into submission and driven from their homes by force of arms. In some instances entire tribes have been ruthlessly slaughtered. The march of imperialism during the nineteenth century has left a shameful trail of murder, rapine, and pillage. This is especially true of the extension of European empires into Africa, Southern Asia, and the Far East. Obviously, such treatment of whole peoples involves a disregard for human personality.[8] It is to be observed that when the weaker nations are civilized peoples, and war is unjustly waged against them, the same violation of human personality occurs. The force of arms, it need scarcely be said, is not an arbiter of right and justice in every case. When a strong nation unjustly attacks and overthrows a weak one, it commits a grave crime against the human dignity of the individuals composing the conquered nation. The guilt of this crime is to be laid primarily at the door of the statesmen of the conquering nation, although influential private citizens are also guilty to the extent that they do not use all legitimate means to prevent the injustice.

2. The second group includes all persons who are unwilling or unable to protect their lives or property by force. It embraces the overwhelming majority of the community, who look to the instruments of the law for the protection of their persons and their goods. Against them is arrayed the ''criminal population.'' To the criminal ''life is cheap.'' He places a lower value on his victim's life than on his purse or his jewelry. The hardened criminal ''shoots his way out.'' He will even destroy innocent persons who might be summoned to testify against him. A newspaper editorial comments on a murder of this kind:

''The savagery exhibited in the murder of a woman, feared by the murderers as a possible witness against them, deserves more consideration than a single crime would in itself invite.

''American society suffers seriously from disregard for life. It is the characteristic of a frontier morale which persists even to our day, for we are, in fact, a young community whose energy is enormous and whose discipline is rudimentary. We kill one another by the hundreds through heedlessness and lack of social responsibility, and if we do not precisely condone crime we, at any rate, have not yet developed a social consciousness active enough to suppress it.''[9]

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[8] Moon, *Imperialism and World Politics*, Chaps. VII–XV.

In the large cities of the United States, such as, Detroit, Chicago, and New York, crime is ''organized.'' Moreover, organized crime rings operate from city to city. Approximately twelve thousand murders are committed each year in the United States. According to Dr. F. L. Hoffman, the homicide rate for American cities is 10.1 per one hundred thousand population. From 1900 to 1929 the rate per one hundred thousand population has doubled. The rate for Detroit in 1929 was 18.6 per hundred thousand; for Chicago, 12.7; for Philadelphia, 8.4; for New York, 7.1; and the average for thirty-one cities, 10.1.[10] These figures indicate a growing indifference on the part of the general public toward the sacredness of human personality. They show that not only the criminal population is devoid of respect for human worth, but also that the general public is indifferent insofar as it does not demand that the courts and juries punish murders and crimes against persons according to the requirements of justice and equity.

3. The third group includes individuals who are unable or unwilling to resort to trickery or dishonesty to protect themselves. The honest, and those who are deterred by moral considerations from taking or keeping what is not their own, are frequently reduced to a position where they are defrauded, or even deprived of the necessities of life, by the unscrupulous and crafty. These latter are not restrained from wrong-doing by considerations of right and justice, but mainly through fear of public disapproval, or of fines or imprisonment. Such self-restaint as they practise is prompted chiefly by external motives. Consequently, because of their economic strength, they are able to ride roughshod over the rights of those who are guided by the internal dictates of conscience. To this class of persons belong food adulterers, dishonest advertising promoters, profiteers in the necessities of life, and the corrupters of legislatures or city councils. For example, the wealthy coal operator who bribes legislators in order to block the passage of laws requiring the use of rock-dust to prevent coal-mine explosions, violates the human dignity of his employees, because he exposes them to unusual and extraordinary hazards of health and life. The employees, on the other hand, cannot re-

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[9] *The Chicago Tribune*, August 20, 1928.

[10] The Prudential Insurance Co., Bulletin, March, 1930.

taliate in kind by bribing legislatures. This does not mean that all coal-mine operators are dishonest, nor that all coal miners are honest. It may be that an individual coal miner is dishonest in his dealings with his fellow workers or with others. The example merely illustrates the point that those who are dishonest and strong have it in their power to oppress the weak, who are unwilling and, perhaps, unable to resort to unjust methods to protect themselves.

4. The fourth group in society exemplifying the need of the doctrine of human sacredness includes all women. If belief in the intrinsic value of every person were to be abandoned by society, the only standard that would be recognized would be that of physical strength. But if physical strength is to be the exclusive principle of order in society, the status of woman will necessarily be lowered. It is estimated that the average physical strength of a woman is five-eighths of that of a man. Consequently, without the protection that is accorded woman from the conviction that she is man's equal because she possesses human worth, her status would inevitably sink to that of the Greek and Roman matron. Woman would be treated merely as an object of passion, and her inability to defend herself against the superior strength of man would deprive her of all semblance of personal equality.

These conclusions should be kept in mind when one considers the divorce rate in the United States, which is increasing more than three times as rapidly as the population.[11] On the surface divorce appears to give woman a wider measure of freedom than she enjoys under strict monogamy. Nevertheless, it ultimately degrades women, because it subjects them to the whims and unregulated passions of men. It will be seen in Chapter VI that among every people, past or present, where there is a general relaxation of the marriage bond, both men and women are degraded, but women far more than men. When divorce becomes general, woman is deprived of her rightful dignity of essential equality with man. It is, therefore, only the universal acceptance of the principle of human inviolability that can arrest or prevent the evils of divorce, and guarantee true respect for woman as a human being essentially equal to man in personal worth and sacredness.

5. The fifth group includes children and minors. The doctrine of human inviolability finds an important application in this group, especially in the case of very young children. A society which is indifferent to human inviolability gradually comes to follow no other dictate with regard to children than that of the personal convenience or comfort

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[11] U. S. Department of Commerce, *Marriage and Divorce*, 1928, p. 18.

of adults. This is true especially of the infant's right to life before its birth. It is to be remembered that the child is as truly a human being before birth as after; and its right to life is inviolable from the first moment of its existence. The child has also a moral claim to a home and the guidance and protection of its parents, all of which is nullified by the separation or divorce of its parents. It may be difficult to imagine parents becoming so calloused to the claims of their children as has just been assumed, but the history of Greece and Rome affords abundant proof that this state of affairs can come to pass.

6. A sixth group in society which requires the protection provided by the doctrine of human inviolability, includes the sick, the mentally defective, the aged, and, generally, all who are in a condition of physical inferiority. It is immediately evident that the sick and diseased stand in need of special protection from those who would take advantage of their weakness. According to what was said above concerning the universal character of personal inviolability, every person, regardless of his physical or mental defects, must be accorded treatment in keeping with his dignity as a human being. Such proposals, therefore, as the painless putting to death of the incurably insane, the bedridden sick, or aged persons suffering from senile dementia, are directly opposed to the concept of the inherent sacredness of the human person. Even if such persons ask others to put them to death in order to relieve them of their sufferings, the case is not changed. To do so is to commit murder. Another application of the principle of personal inviolability may be found in the field of surgery. Unnecessary surgical operations are sometimes performed on human beings by unscrupulous surgeons either for the sake of scientific information, or for the fees that can be collected from the patient or his relatives. Harry H. Moore, of the United States Public Health Service, writes: "That there are many unnecessary operations performed is the opinion, apparently, of a number of men in the medical profession."[12] If death results from an unnecessary operation, the surgeon is guilty of murder. Even if death does not follow, he has violated human personality, for every person has a right to the complete integrity of his body.

7. The last group embraces all those who comprise the weak economic classes in society, and who are prevented from purchasing the necessaries of normal human life because of their inadequate earnings. It is not too much to say that the disregard of human personality in the field of industry and finance is the basic cause of social unrest. This

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[12] *American Medicine and the People's Health*, p. 173.

statement calls for an explanation of the workings of the present industrial system, and the place which the wage-earner occupies in it.

Generally speaking, the prices of all goods are set by the forces of supply and demand. If, for example, there is a shortage of steel rails, and the demand is unusually heavy, the price of rails will go up. Again, if the cotton crop is unusually large, and the market demands for cotton are light, the prices will go down. The same forces of supply and demand regulate the level of wages paid to common laborers. If there is an active demand for unskilled workers in factories, their wages will rise; if the demand is light, their wages will fall. In other words, the amount of the wage paid to common laborers is determined by the same market forces that determine the prices of steel, oil, cotton, or meat. As a result, the labor of human beings is bought in the same way that material commodities are bought, regardless of whether the price thus determined is sufficient for the needs of the worker and his family.

An employment manager speaks of what "he can get labor for" in dull times, and what "he has to pay" in prosperous times, recognizing thereby that the wages of laborers are set by the conditions of the "labor market." In itself, this method of determining wages is not wrong. In fact, competitive conditions must be taken into account in the determination of wages. But the competitive wage in the unskilled occupations in the United States has never been sufficiently high to enable the worker and his family to secure the necessaries and moderate comforts of life. To the extent, therefore, that the present system neglects the human needs of workers and their families, it violates human dignity.

If one examines the news letters of New York or Chicago banks, one will find the prices of unskilled labor listed together with the prices of steel, oil, wheat, cotton, meat, and other commodities. No distinction is made between the price of labor and the price of material commodities because no distinction is made in their determination in industry. It is evident, therefore, that since the wage paid to the millions of unskilled workers is controlled by the market forces of supply and demand, wages can fall to a level which renders it impossible for the worker and his family to live normal human lives and to provide for the exegencies of sickness and old age. In fact, this has taken place. Because of the relatively large number of unskilled workers, the wages of at least one-third of the thirty million workers in the United States are insufficient to purchase the necessaries of life.

Secretary of Labor Davis writes: "It is not an exaggeration to say that we have some millions of these hard-worked but underpaid Americans. Taken together with their families and their dependents, I would venture to say we have among us from ten to fifteen millions of people who do not share as they should in the prosperity enjoyed by the rest of us. Morally, economically, and on the grounds of simple humanity, this inequality should not be allowed to exist in this the richest nation of history.''[13] The railroad laborers are the lowest paid of the low-wage groups, their average for 1926 being seventeen dollars per week. Numerically they are the largest group, including considerably over two hundred thousand workers. With their families and dependents they represent well over one million persons.[14]

Since the wage received by the worker in the present industrial system is his only means of obtaining the necessities of life, the refusal to pay him an adequate wage deprives him of the means of living. This is clearly a violation of his sacred worth as a human being, and that of each member of his family. Investigations made in various parts of the country show that the personality of the worker and of each member of his family is violated because of the low wage which the father is forced to accept.[15]

These violations of human rights occur in different ways. First, the human rights of the infant suffer. The infants of low-wage families not only suffer in health because of the lack of proper food, clothing and warmth, but a disproportionate number of them die.[16] In a survey of infant mortality in seven American cities made by the Children's Bureau of the U. S. Department of Labor, it was revealed that the death rate of infants is in direct inverse ratio to the father's earnings. The report states: ''The higher the earnings the smaller was the proportion of deaths. For infants whose fathers earned less than four hundred fifty dollars [per annum] the rate was 166.9 [per thousand live births] as compared with only 59.1 for those whose fathers earned one thousand two hundred fifty dollars or over.''[17] It need scarcely be said that this condition constitutes a direct attack on human rights and dignity.

Secondly, low-wage levels cause abnormally high sickness and death rates among adults in the low-wage groups. Whenever studies are made it is found invariably that illness increases among families as income decreases. This fact has been discovered in surveys so often that it is now a commonplace. The most recent study is that made by the U. S. Public Health Service in Hagerstown, Maryland. Sickness was found in 10.3 per cent of the well-to-do and comfortable households; in 12.3 per cent of the households of moderate means; and in 16.9 per cent of the households of the poor and very poor. These figures prove also that the number of deaths in families increases as the wages of the fathers decrease. The Bulletin just quoted states: "In the data for England and Wales and in the data for Denmark, the death rates from all causes increase as economic well-being goes down."[18] Thus it is evident that human rights are violated by inadequate income.

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[13] U. S. Department of Labor, *Monthly Labor Review*, August, 1927.

[14] *Ibid.*

[15] See for example the Russell Sage Foundation's publication, *Wage-Earning Pittsburgh*, pp. 279–304.

[16] Woodbury, *Infant Mortality and Its Causes*, pp. 123–152.

[17] U. S. Department of Labor, Children's Bureau, Publication No. 142, p. 148.

In addition to their physical sufferings, the families of workers who are compelled to accept very low wages are also denied the opportunity for proper education and recreation. For example, the U. S. Coal Commission found that the educational and recreational facilities in low-wage mining districts were entirely inadequate.[19] Moreover, even when low-income families are aided by public or private charity organizations, and suffering is thereby prevented, a very grave injustice is done to these families. It should be remembered that human dignity requires more than the preservation of physical well-being and bodily integrity. It includes also the maintenance of self-respect and independence. These qualities, however, cannot be maintained, if an industrious father finds that he must accept help from a relief organization to supplement his wages in order to support his family. This condition actually obtains in most American cities. For example, the United Charities of Chicago reported in 1921–1922, a total of 5,416 families receiving major service. Of this number, 2,554, or 47 per cent, were aided because the fathers of the families were involuntarily unemployed or because they were receiving insufficient wages. It was fortunate for these families that they were able to obtain the necessaries of life, but it was a grave injustice to them that they were compelled to obtain them in this way. The self-respect of the members of a family is outraged when an industrious father is forced to ask for public alms, because his wages will not provide his family with the means of livelihood.

The remedies necessary to correct the injustices of the wage system are of two kinds, first, the organization of workers in order to strengthen their bargaining power with employers, and secondly, the enactment of laws preventing an industry from paying a wage insufficient to support workers and their families in reasonable comfort. These measures will be discussed in greater detail in Chapter XV. For the present it is sufficient to say that these proposals are based on the necessity of protecting the human worth of every man, woman, and child.

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[18] U. S. Treasury Department, Public Health Bulletin No. 165, p. 41.

[19] Report, 68th Congress, 2d Session, Part III, pp. 1489–1494.

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QUESTIONS FOR REVIEW

1. Can the value of human life be measured?
2. What is meant by "human dignity"?
3. Give synonyms for "human dignity."
4. Why is the consideration of human dignity so important in the study of social questions?
5. Show how human inviolability is derived from the purpose of human life.
6. Prove that intrinsic worth is not possessed by animals.
7. Give proofs that dignity inheres in individuals and not in humanity in general. Why is this distinction important?
8. Show the relationship between human dignity and equality.
9. If the human dignity of every individual were respected would class distinctions still exist? Would there still be rich and poor?
10. Is human dignity destroyed by mental derangement? Point out the consequences if this belief were to become general.
11. Show how one violation of human integrity begets another.

12. Show the antithesis between absolute slavery and human dignity.

13. Does human sacredness vary with individuals? Is that of the president greater than that of a foundling?

14. Give historical examples of the social effects of disregarding the intrinsic worth of the individual.

15. What is the meaning of the words, "inviolable personality"? Show ways in which personality is violated.

16. Does the principle of "inviolable personality" make capital punishment morally wrong?

17. Name all the groups in society who suffer from the disregard of human personality.

18. What is the application of the doctrine of the dignity of man to backward nations? To the protection of people from crime? To women?

19. Does the principle of human dignity place any restraints on the industrial system?

20. Show the relationship of child labor to the protection of the human person.

21. How is the question of wages bound up with that of human dignity?

CHAPTER III

Rights and Duties

I. THE NATURE OF RIGHTS

A. Definition of a Right—B. Definition of a Duty—C. The Moral Law, the Sanction of Rights and Duties—D. Theories of Kant and Spencer—E. Kant's Theory and Divorce—F. Kant's Theory and Social Legislation—G. Kant's Theory Refuted by Experience

II. THE CLASS OF RIGHTS

A. Natural Rights—B. Positive Rights

III. THE ORIGIN OF NATURAL RIGHTS

A. The Moral Law, the Source of Rights—B. False Theories of the Origin of Rights

IV. CONFLICT OF HUMAN AND PROPERTY RIGHTS

A. General Principle—B. Unequal Distribution of Wealth

The need of a system of rights and duties may be illustrated with a simple example taken from everyday life. When an automobile driver says that he has the ''right of way,'' he means that the traffic laws permit him to go ahead. If another driver attempts to cross in front of him, or to come ''head on,'' the latter can be held at fault, and liable for damages. An automobilist has the ''right'' to use the east half of the highway when he is driving north, and a ''right'' to use the west half when he is driving south. So long as he drives at a reasonable speed, and keeps to ''his own side,'' or on his own ''right of way,'' no other driver can complain of injustice if he is struck. In this case the second driver would be off his own side, or moving into a position in which he did not have the ''right of way.''

Thus the traffic laws assume that whoever has the ''right of way,'' may not be interfered with while exercising this right. On open country roads where traffic is light, there is little difficulty in deciding who has ''the right of way,'' and who has not. But at congested corners in large cities, where perhaps two thousand cars pass one another at right angles every hour, the case is not so simple. At such points it is necessary to station officers to prevent rights from conflicting, and to permit an orderly flow of traffic. Without officials of this kind, invested with the authority of law, there would be general confusion, and even accidents and death.

This simple example illustrates the function of rights and duties in society. In order that a person may enjoy freedom, peace and happiness, he must be permitted to exercise certain rights. But it is to be noted that the individual is only one unit in the community. In order, therefore, that *all* persons may enjoy peace, freedom and happiness, no individual can be permitted to exercise his rights without due regard for others. Hence, the law intervenes by defining the limits of the rights of individuals. Obviously, in sparsely settled rural districts there are not likely to be many conflicts over rights, nor is there much need of legal definition. But in populous cities, where persons live in close proximity to one another, sometimes from seven to eight hundred in a single block, there are bound to be conflicts. In busy cities, persons come in contact with one another in a thousand different ways; for example, in business and industry, in meetings of various kinds—in theatres, schools, lodges and gatherings for cultural or recreational purposes. Human beings literally cross one another's paths every hour of the day, and as a result there is a possibility of numerous conflicts and clashes of interests.

To keep these conflicts and clashes at a minimum, every society sets up some system of rights. The purpose of rights is to secure the widest measure of freedom and opportunity for development for each individual, and, at the same time, to prevent him from disturbing the peace and order of the community by interfering with the freedom and opportunity for development of others. It becomes necessary, therefore, to have a correct understanding of the nature of rights, together with the duties that go with them. This chapter will accordingly consider: (I) The Nature of Rights; (II) The Classes of Rights; (III) The Origin of Natural Rights; (IV) The Conflict of Human and Property Rights.

I. THE NATURE OF RIGHTS

A. Definition of a Right.—A right may be defined as an inviolable moral power to do, have, or acquire something. It is called *inviolable* inasmuch as its possessor may not be interfered with by others in its exercise. It is a *moral power,* because it is based on justice. All men recognize the existence of justice, and its necessity for the maintenance of order in society, even though they do not always recognize its nice requirements.

Justice, as conceived by all men, means that every person must be given what is his own; and that even if he is unable to defend his goods with his fists or with weapons, he still retains ownership of them. This non-physical aspect of justice is commonly called its moral character. It is this character of justice that makes a right a moral power.

Since a right is a power, it is a means to an end. This is true of all rights, with the single exception of the right to life, which is not merely a means, but an end in itself. A power is exercised not merely for the sake of being exercised, but to secure some object or purpose. For example, the father of a family has the right to exercise authority over his family, not in order to gratify his love of exercising authority, but in order to secure unity and harmony in his home. Similarly, the right to own property, money, houses, lands, or securities, is only a means to an end. In the case of the miser, money is made an end rather than a means. The miser makes his savings the end of his existence. He loves gold for itself. The true purpose of the right of ownership, however, is to provide reasonable security for the owner, and to maintain peace in the community. Unless individuals enjoyed a title of ownership, their possessions would be a cause of constant dispute, with a consequent periodic or continued disruption of peace and order. In a word, the purpose of the right of ownership is to promote private and public well-being. In like manner, *all* rights are intended to serve higher ends. A right, therefore, is not an interest or pleasure to be gratified, or merely a satisfaction to be experienced.[1] It is rather an instrument, or, in some instances a weapon, designed to protect the individual and society.

B. The Definition of a Duty.—It is the essence of a right that the one who possesses it may not be molested in its exercise. In other words, when one person has a right to do or to have a certain thing, everyone else must yield. The obligation to yield to a legitimate right is called a *duty*. There are different kinds of duties, all of which need not be treated here. The kind of duty which is discussed at this point, is called juridical, and is defined as the moral obligation of doing, or refraining from doing, all that the rights of other persons require. Thus, if A has the right of ownership in a gold watch, B and C and everyone else must respect his right. They have the duty to refrain from taking his watch, or of wearing it without his consent. The same rule applies to every right that a person possesses. Thus, a person's right to life and a good name, to the privacy of his home, to the use of the public streets, parks, and schools, down to the right over his most trivial possessions, must be respected by all other persons. In other words, they have the duty not to interfere with any of his rights. This is the meaning of the expression that rights and duties are correlative.

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[1] Valensin, *Traité de Droit Naturel*, T. I, p. 141.

C. The Moral Law, the Sanction of Rights and Duties.—It may be asked, what provides the sanction which imposes the duty on the strong to refrain from violating the rights of the weak? The answer to this question is contained in the definition given above, which states that a duty is a moral obligation. Hence, although a highwayman is physically able to compel a pedestrian to surrender his money, the highwayman is not justified in taking the money, for the pedestrian's right to his property does not cease merely because he is unable to keep it by force. Society recognizes a power over and above that of mere physical strength. This is the moral law, which imposes an obligation in conscience on the strong to respect the rights of the weak and helpless.

The requirements of the moral law, which is the source and sanction of moral power, are made sufficiently clear to every individual by the teachings of the Church and the prescriptions of the civil law. In exceptional cases the civil law may fail to reflect the requirements of the moral law, or may even run counter to them. But such instances are not numerous; and, inasmuch as civil laws are applications of the general provisions of the moral law, all citizens are bound in conscience to obey them. Moreover, the civil law is the machinery of the moral law, since it employs physical force through fines, imprisonment, or death, to compel respect for the rights of each citizen as against those who would be inclined to disregard or violate them. The moral obligation to observe civil laws is therefore obvious.

D. The Theories of Kant and Spencer.—Directly opposed to the concept of a right as a moral power, is the theory that a right is only a liberty. This false theory has caused much of the disorder and injustice that exists in present-day society. It owes its origin chiefly to two philosophers of modern times, Immanuel Kant (1724–1804) and Herbert Spencer (1820–1903). Kant, a German philosopher, held that rights are mere liberties, and that a person is free to do anything that does not interfere with the identical liberties of others.[2] Kant, however, qualified this teaching somewhat, by insisting that a person has a right to perform an act only if he is willing to permit all others to do the same.[3]

It was not Kant's purpose to advocate undue license, which would undermine the foundations of society. In fact, he was a high-minded philosopher, aiming to teach a lofty code of morals. This is seen especially in his famous rule of conduct: ''Act according to a maxim which can at the same time hold good as a universal law.''[4] At first blush, this formula sounds like a restatement of the golden rule, ''Do unto others as you would have them do unto you.'' Nevertheless, as will be shown presently, it has caused many evils and injustices in society since the time it was originally proposed.

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[2] *Critique of Practical Reason*, Trans. by Abbott, London, p. 58.
[3] *Ibid.*, p. 281.

The Kantian theory, that rights are liberties, was popularized by Herbert Spencer, the English philosopher. Spencer wrote: ''Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man.'' This, he said, is ''the law on which a correct system of equity is to be based.''[5] Spencer saw a confirmation of this law in the evolutionary theory of the ''survival of the fittest,'' by virtue of which organisms best adapted to their environment thrive, and those least adapted, decay and disappear.[6] Accordingly, his system of justice is a combination of Kantian philosophy and evolutionary theory. Like Kant, therefore, he taught that rights are mere liberties. While both Kant and Spencer probably sought to solve some of the problems arising out of the shifting conditions of their times, their theories have worked widespread havoc in society. Some of the resulting evils will now be considered.

E. Kant's Theory and Divorce.—Kant's theory, that rights are mere liberties, has influenced modern thinking and conduct very much more than is ordinarily supposed. It forms the groundwork of the philosophy known as individualism. Individualism places undue emphasis on the prerogatives and claims of the individual, at the expense of the legitimate interests of society. Thus the extreme feminist movement is a phase of individualism, as it exalts the rights and liberties of woman, without taking account of her paramount function in society, namely, her actual or potential motherhood. In like manner, Kant's theory forms one of the important speculative bases for the present loose attitude regarding divorce. In the last analysis, divorce is a revolt by the individual against the restraints of the marriage bond. It is a repudiation of personal obligations, and a yielding to personal inclination or pleasure. The divorcee will say, according to the Kantian formula: ''I insist on my right to a divorce, because I am willing that divorce be raised into a universal law.'' Thus it is evident that Kant's rule, ''So act that your action can be elevated into a universal law of conduct,'' leads to disastrous consequences. These are some of the moral evils that follow from the false theory that rights are mere liberties.

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[4] *Ibid.*, p. 281.

[5] *Social Statics*, p. 55.

[6] *Principles of Ethics*, Vol. I, p. 74.

F. Kant's Theory and Social Legislation.—The theories of Kant and Spencer have been embodied in many of the laws enacted in Western Europe and the United States, during the nineteenth and twentieth centuries. Legislators have followed the principle that the widest margin of liberty must be safeguarded for individuals, and have framed laws in such a way as to prevent governments from interfering with the liberties of their citizens. Professor Roscoe Pound, of the Harvard Law School, describes present-day juristic thought as characterized by an ''eighteenth century interpretation of law as existing solely to secure liberty, the acceptance of Herbert Spencer's Kantian formula of justice, the theory that government is to be held down to the inevitable minimum and the uncompromising insistence that men should be required to act unaided by legal restraints in their own interest and made to stand or fall by the consequence of their choice.''[7]

The political scientists who follow the Kantian theory of rights are known as ''liberalists,'' or ''individualists,'' or advocates of *laissez-faire*. The more extreme of these writers maintain that a government should permit the widest possible margin of freedom for the individual, and consequently should refrain from passing laws regulating the activities of large corporations, or in any way affecting the wage contract between a worker and his employer. Hence, even laws that would forbid employers to require women and children to work excessively long hours, or that make a fair wage-scale mandatory, should not be enacted. Laws of this character, it is claimed, abridge either the employee's or the employer's freedom of contract, and represent an improper interference by the government with individual liberty. According to the individualists, workers should freely compete for work, and competition should be the sole determinant in fixing wages, hours, and working conditions in industry and agriculture. Similarly, employers should be permitted to enjoy the utmost freedom of contract in dealing with all who come to work for them; and no state law should attempt to restrict their freedom, by specifying the minimum wage that they may pay, or the maximum number of hours that they may require their employees to work.

The falsity of this theory appears most clearly when one reviews the evil effects that have resulted from the absence of legal safeguards for workers, particularly in the closing decades of the eighteenth, and the early part of the nineteenth century. The sufferings and hardships of employed women and children in England during this period, are proof that the Kantian theory of rights is, in practice, a theory of oppression and degradation. While the theory has been more and more disregarded, as social legislation has increased during the past three decades, nevertheless, it still stands in the way of necessary and wholesome laws for the protection of the weak against the strong.[8]

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[7] *American Law Review,* Vol. XLIV, pp. 28–29.

G. Kant's Theory Refuted by Experience.—Kant's doctrine that rights are mere liberties is refuted also by common experience. The theory ignores the all important truth: Social liberty can be secured only through restraint.[9] It is true that Kant placed a limitation on absolute liberty when he declared that a person has a right to do certain things only up to the point where he would permit others to do the same. This rule, it is to be admitted, places a check on rights or liberties. Nevertheless, it does not prevent the abuse of liberty, for, according to Kant, the individual is allowed to decide whether or not he has a right to perform a particular act. For the great mass of persons who are fair, honest, and conscientious, Kant's formula is not an unsatisfactory working rule of conduct. But all persons are not fair, honest, and conscientious. There are the unscrupulous, the selfish and the autocratic, and these persons cannot be permitted to decide what violates the rights of others, when their own interests are involved. It is even conceivable that such persons may be acting in good faith when they claim liberties for themselves which are palpably destructive of the rights of others.

Professor Hobhouse says:

> The liberty of A to knock down B is not sufficiently confined by the corresponding liberty of B to knock down A, if he can. If A is a trained pugilist, while B is an ordinary man, A might use his liberty to extort what he would, and B would be in his power. With no essential modification, the same argument will apply to any means of coercion that one man may exert upon another. The right of the weaker party to use similar means, if he happened to possess them, is a very poor consolation to him for the absence of real and present protection. It is evident that what the weaker party needs is, not the right to retaliate, but security in the enjoyment of the rights he possesses, and if rights are founded on real conditions of well-being, it is for the common good that this security should be given him. Whatever happens to liberty then, it must respect the acknowledged rights of all members of the community.[10]

The same writer applies these conclusions to the theory of freedom in the wage contract. He says: "Freedom of contract paradoxically can be

[8] *Semaine Sociale de France*, 1922, p. 206.

[9] Hobhouse, *Liberalism*, p. 139.

[10] *The Elements of Social Justice*, p. 61.

used to defeat freedom. There are two parties to a contract, and the uncontrolled freedom of the stronger may be used to the oppression of the weaker. Freedom for both parties can be secured only if the stronger party is prevented from taking advantage of the weakness of the other, i. e., a common freedom must be an equal freedom.''[11] In order, therefore, to maintain genuine freedom in contractual relations, restraint must be applied to those who have it in their power to exploit others, and unduly subject them to their will. Thus the doctrine which conceives rights as liberties must be rejected as destructive of the best interests of society. As shown above, a right is a moral power, deriving its sanction and inviolability from the moral law.

II. THE CLASSES OF RIGHTS

Rights may be classified according to their importance to the individual. Some are of minor or even negligible, importance, and may be surrendered without serious hardship; for example, the right to conduct a grocery in a restricted residential district. Others, again, can be surrendered only with grave inconvenience, such, for example, as the right to use the public streets, schools, or libraries. Finally, others cannot be surrendered at all. These include the right to live, and to be free in the exercise of one's religious convictions. These rights are called inalienable, because they cannot be taken from an individual without doing violence to his personality. Every individual may be considered as having around him a series of concentric circles. The circle nearest him includes his right to life, and the subsidiary rights necessary to give it validity, namely, the right of self-defense, and the right to the means of livelihood in return for useful labor. The second circle includes the right to marry, to found a home, and to be a free person. The third circle includes the right to own property, and to remain free and unmolested in its enjoyment. Obviously, the rights within the first zone are more indispensable to the person than those in the second, and those within the second more indispensable than those within the third.

Various classifications of rights have been proposed, but the most satisfactory one is that which places all rights under two main headings: (A) Natural Rights, and (B) Positive Rights.

A. Natural Rights.—Natural rights are those which a person possesses by virtue of the fact that he or she is a person. They are of two main classes: (1) Those which protect a person against sudden or violent death by an unjust aggressor, and (2) those which protect his title to normal growth and development, both physical and moral.

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[11] *Social Development*, p. 280.

1. The right which protects a person against sudden or violent death is with him constantly. It begins with the first moment of his existence, before birth, and continues in his sleeping and waking hours throughout life until death. This right renders the individual sacred against all who would take his life, and also against himself, should he attempt violence against his own person. The safeguarding of this right is the chief concern of every state, as police systems, courts and jails are maintained primarily for the protection of the citizen's person.

By virtue of the right to life, everyone is obliged to avoid exposing himself or others to unusual physical hazards. Ordinarily, the primary instinct of self-preservation impels the individual to protect and safeguard his own life. But there is no primary instinct in the individual impelling him to respect the life and bodily integrity of others. He does this because of the sanctions of the moral law, which manifest themselves to his conscience; or, in some cases, because of the sanctions of the social code, which is a reflection of the moral law. If, therefore, one does not exercise ordinary care for the person of others, and death results, he makes himself guilty of murder. This is illustrated in the case of a reckless automobile driver, who through carelessness strikes down and kills a pedestrian. Likewise, the responsible heads of a factory who know that the machinery in their plant is extremely dangerous, and who refuse to install the necessary guards, render themselves guilty of murder, in case a worker dies as a result of an accident suffered while operating a defective or unguarded machine. These conclusions are immediately deducible from the right of every individual to freedom from unjust attacks on his life.

2. The second group of natural rights includes the rights to normal human growth and development, both physical and moral. This group differs from the first only in degree. The first protects against death inflicted in a few minutes or a few hours; the second, against death induced before the normally expected time. Inasmuch as the latter type of death is death no less than the former, it represents an attack on a person's right to live. Every civilized community recognizes the existence of this right by issuing public poor-relief, maintaining alms-houses, county and state hospitals, and homes for dependent and neglected children. This is done on the tacit assumption that, as far as possible, no one in the community is to be allowed to suffer or die for want of the necessities of life.

The disregard of the right to normal growth and development is exemplified in the case of low-wage families in which the father's earnings are insufficient to secure the quantities of food, housing, clothing, medical care, and recreation, necessary for physical and spiritual well-being. As a result, the health of the family is impaired, and its resistance to disease and death is abnormally reduced. Generally speaking, the industrious poor who, because of the low wages or the part-time employment of the main bread-winner of the family, are unable to secure the necessaries of life, belong to the group whose right against unduly accelerated death is clearly violated.

Another set of extremely important rights includes the right to normal spiritual and mental development. Under this heading may be placed the inalienable right of freedom of conscience and the right to an education, or to a training in a craft or trade. In this same class belongs the right to freedom or self-expression. Fortunately, at the present time, most of the civilized nations provide a generous margin of personal liberty, and immunity from governmental oppression. But the liberty necessary for the well-being of men and women must have an opportunity for expression in other than the political field. It must also be safeguarded, at least in some measure, in the places where men and women work. Unless they enjoy some degree of freedom in their daily occupations, their right to exercise the natural faculties of mind and will is thwarted, and their lot becomes that of serfs, who merely do the bidding of others.

A condition akin to slavery exists in many of the large industries of the United States and Europe. The great majority of men and women wage-earners who are compelled to operate repetitive automatic machines, year in and year out, are denied a voice in determining the conditions under which they work. They are deprived of an opportunity for free expression, with the result that their right to liberty and freedom is frustrated. This represents an undue restriction on their natural right to liberty, and is certain to weaken the moral fibre and individuality of the coming generation. It is a hopeful sign, however, that in some industries, notably in the clothing trades, workers are accorded an opportunity to share in the determination of their working conditions through shop committees, operating in conjunction with recognized trade unions.

B. Positive Rights.—The rights of the second class are called positive, that is, they proceed from a promulgated law, either divine or civil. If the law is divine, the rights derived from it are God-given. Thus children have definite moral claims to protection and care up to their early adolescence, originating from the divine law of indissoluble marriage imposed upon their parents. Hence, among its other evil consequences, divorce violates the child's divinely conferred claims to a home and the love and guidance of its parents. If, in the second place, the law is civil, the rights which proceed from it are civil. This class of rights embraces all the titles and immunities that go with citizenship. In the United States, they include, among others, the right to take part in public affairs by voting; to offer oneself as a candidate for public office; and, above all, to have one's inborn rights and liberties protected by the courts and laws of the land. These rights are enumerated in detail in the first ten amendments of the Federal Constitution, and in the constitutions of most of the states. The ten amendments just mentioned are frequently referred to as the American Bill of Rights.

It is well to repeat that every right, of whatever character, is the complement of a corresponding duty. A right would be meaningless to a person if others had no obligation to respect it. For example, A's right to the sacredness and privacy of his home would be an empty phrase, if others were free to enter or occupy it as they chose. Consequently, each and every right of the individual carries with it the power of enforceability, that is, the guarantee of the moral or civil law, which prevents all other persons from interfering with its exercise.

III. THE ORIGIN OF NATURAL RIGHTS

A. The Moral Law, the Source of Rights.—By the expression, "the origin of rights," is meant the source from which rights proceed. Rights originate in the moral law, whence they descend to human beings. This is true not only of natural rights, but also of such political rights as are ceded to citizens by their governments; for governments themselves receive their ultimate authority and sanction from the moral law.

By far the most important rights which a person possesses are his natural rights. They are as much a part of him as are his heart, hands, or feet. He is born with these rights in the same way that he is born with the members of his body. Everyone comes into the world clothed with a panoply of natural rights, designed to provide him with protection throughout life. Because of the importance of natural rights, their origin and principal characteristics will be examined in further detail.

1. *Natural Rights, Evidence of Man's Dependence.*—Rights are essentially protective in character. They serve as a moral armor, which others may not break through without incurring moral guilt. In one sense, man's natural rights are an evidence of his weakness and help-

lessness, inasmuch as he is equipped with them because of his necessities and his dependence upon others. This is obviously true of the weaker groups, who need protection against the strong. But it is true also of the strong, for they, too, at least during certain periods of their lives, for example, in infancy, sickness, or old age, stand in need of the protection of the moral law against those who might oppress them. Natural rights, therefore, are necessary for the security of all persons.

It should be repeated that even if a person is physically unable to defend himself against others, he is protected by the moral law, which invests him with moral inviolability. In case he is unjustly attacked, his rights do not cease to exist. Thus when a person is assaulted by a bandit, he is not thereby deprived of his right to freedom from assault. Similarly, the right of school children to sufficient food and clothing is not voided because they are denied these necessities of life. Those who violate such a right, of course, render themselves guilty in the court of conscience.

2. *Natural Rights, Evidence of Man's Dignity.*—From another standpoint, man's natural rights testify to his high dignity and station among created things. They give him his title of "King of Creation." He enjoys this title especially with reference to the plants and animals, which fulfil the purpose of their existence in his regard by ministering to his needs. But what is of still greater importance is that man's natural rights invest him with certain immunities which all his fellow men must respect. To further their own convenience and comfort, they may not treat him as a mere material thing. In their dealings with him, they may at no time regard him as one whit less than a human being. If they violate his person or its protecting rights they commit a crime against the moral law and incur its penalties.

A crime is a morally evil act committed by one who ignores or invades the natural rights of another. By his act, the wrong-doer renders himself accountable to a law higher than the civil law. Ordinarily, the civil law punishes such actions. But even though it is unwilling or unable to do so, for example, because of its inability to obtain a sufficient number of adverse witnesses, the violation of the moral law still stands. Hence, even when the civil law cannot, or does not, punish an offender, the moral law convicts him in his conscience and demands retribution. The civil law therefore merely interprets and enforces the provisions of the moral law. It is solely on this assumption that true freedom can be preserved in society.

Woodrow Wilson writes: "Individual liberty can exist only where it is recognized that there are rights which the state does not create, but only secures."[12] Peoples set up governments and pass laws based on the moral law, for history and experience have taught them that it is impossible to enjoy peace and harmony unless their laws and institutions are based on the provisions of the law of nature. To conclude, the immediate origin of natural rights is the human person, and their ultimate source and sanction is the moral law.

3. *Natural Rights, Possessed by Human Beings Alone.*—Throughout the preceding discussion, rights have been considered insofar as they inhere in persons. Sometimes, however, rights are attributed to groups of persons, and even, in an abstract way, to social institutions, without reference to individuals. Thus one frequently hears of the "rights" of a corporation, of a city, or of a fraternal organization. Inasmuch as these groupings are made up of a definite number of persons, they may properly be spoken of as the subjects or possessors of natural rights. But the term "rights" is not correctly predicated of social institutions or general abstractions, such as, education, the press, or the medical or the legal profession. To attribute "rights" to these, is to employ the word inaccurately, and may lead to fantastic and unwarranted conclusions. In the interests of clear thinking, expressions of this sort should not be used. Obscurity and vagueness will be avoided by identifying these institutions and abstractions with specific persons. For instance, instead of referring to the rights of the press, one should refer to the rights of the persons who own and print newspapers, books, and magazines. Strictly speaking, therefore, things or abstractions cannot possess rights. They inhere in persons alone.

B. False Theories of the Origin of Rights.—In direct opposition to the doctrine that natural rights come from human beings, who in turn receive them from the moral law, several theories are advanced. These hold that natural rights proceed from either, (1) the civil government, or (2) society in general.

1. *State Origin Theory.*—The first of these theories is known as the "state origin" theory of rights. It holds that all of a person's rights come to him from the government under which he lives. This theory is advocated by Hobbes, Spinoza, and Bentham, and particularly by the German philosopher, Georg Wilhelm Friedrich Hegel (1770–1831). According to Hegel, the state is an impersonal supreme being, possessing absolute power. It is the highest form of the universal reason and will, and all dutiful citizens must live and act according to its needs and demands. Hegel says: "The state is the realized ethical idea or ethical

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[12] *The State*, rev. ed., p. 89.

spirit. . . . It is the objective spirit, and the individual has his truth, real existence, and ethical status only in being a member of it. Union, as such, is itself the true content and end, since the individual is intended to pass a universal life. His particular satisfactions, activities, and way of life have in this authenticated substantive principle their origin and result."[13] Thus it is evident that while Kant practically gave the individual unlimited self-autonomy, Hegel in effect made him a slave of the state.

In order to disprove the Hegelian theory that the state is the origin of all the rights of its citizens, it is necessary to recall the distinction between civil and natural rights. Civil rights are those which are derived from the constitution and laws of a country, e. g., the right to vote, or the right to run for public office. Natural rights are those which are derived from one's own being, e. g., the right to live, to marry, or to be free in religious worship. The Hegelian doctrine is correct in declaring that civil rights are derived from the state. But it is false when it declares that the innate human rights of citizens are derived from the state. The American Constitution creates certain "constitutional rights" which are necessary to enable the American to live as a free citizen, but it does not create the rights which he possesses by the title of his human nature. Stated in another way, the Constitution guarantees that the American's inborn rights will be protected by the laws and courts of the United States.

In his famous Commentaries on the Laws of England, William Blackstone says: "For the principal aim of society is to protect individuals in the enjoyment of those absolute rights, which were vested in them by the immutable laws of nature; but which could not be preserved without that mutual assistance and intercourse, which is gained by the institution of friendly and social communities. Hence it follows, that the first and primary end of human laws is to maintain and regulate these *absolute* rights of individuals."[14] A former Justice of the United States Supreme Court likewise declares: "A constitution is not, however, the origin of private rights, nor the foundation of laws, nor the beginning of a community. It is not the cause, but the consequence of personal and political freedom. It declares those natural and fundamental rights of individuals, for the security and common enjoyment of which governments are established."[15]

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[13] *Philosophy of Right*, trans. by S. W. Dyde, pp. 240 and 241.
[14] Book I, Chap. I, p. 89.
[15] Miller, *Lectures on the Constitution of the United States*, p. 71.

The question of the precise origin of natural rights is not a purely speculative one. It has a direct bearing on the welfare of the people of every nation. If it be true that the citizens of a country receive *all* their rights from the government under which they live, it follows that the government may withdraw or annul *all* their rights for any reason or for no reason at all. Consequently, a state can set up any official religious system, or any educational system that it regards best for the interests of its people. Or, again, it can dissolve marriages, confiscate property, or designate the careers which young men and women must follow. It would also be justified in empowering commissions to put to death the "unfit," the sick, the infirm, and the aged. In fact, there is no limit beyond which it could not go in outraging human dignity and human freedom, for, if all rights are conferred by the state, all rights can be canceled by it under the flimsiest pretexts of public interest.

2. *Theory That Society Creates Natural Rights.*—Another theory which denies that natural rights proceed directly from the individual and ultimately from the moral law, is that which holds that society creates all rights. This is a popular modern doctrine. Thus a writer, discussing the ethics of capital punishment, says: "All my rights, all my comforts, conveniences, and privileges, indeed the possibility of continued life (since I should not live very long, I expect, on a desert island or in a state of general anarchy), I owe to society."[16]

Another writer says:

> An established right is a promise that a certain kind of behavior will be backed by the organized force of the state or at least by the sentiment of the community; a duty is a promise that failure to respect the rights of others in a certain way will be punished. The punishment may be death, imprisonment, loss of property, the nullification of a right, the expression of disapproval. In short, the system of rights and duties is the whole system of promises which the courts and public sentiment will support. It is not a fixed system. It varies from place to place, and from time to time, and with the character of the tribunals and the community. But none the less it makes the conduct of men somewhat rational, and establishes a kind of union in diversity, by limiting and defining the freedom with which conflicting purposes can be pursued.[17]

According to these statements, the community in which a person lives is the origin of his rights. Consequently, public opinion, or the dominant sentiment of the community, makes and unmakes rights. Carried to its logical conclusion, this means that no one possesses inborn inalienable rights existing independently of public thought or feeling.

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[16] *Manchester Guardian Weekly*, January 20, 1928.

[17] Lippmann, *The Phantom Public*, pp. 100 *et seq.*

The viciousness of this theory is demonstrated by the evil consequences that would follow its application. In modern states the "public" means the majority. On election day the will of the voting majority becomes the will of the nation. But, in reality, a majority even of all who are eligible to vote, is not justified in doing what it pleases. For example, it may wish to confiscate all the property of persons possessing over a hundred thousand dollars. This would be a manifest act of injustice toward the minority. Or again, the majority may wish to create a compulsory state religion, or pass oppressive laws, interfering with personal freedom, such, for example, as the New England Blue Laws. Such actions of a majority would be clear violations of the inalienable rights of the persons constituting the minority. But the minority has no just ground for complaint, if the will of the majority is accepted as the source of rights. In point of fact, the persons making up every minority group possess certain human rights without favor of the majority, and, in governments like that of the United States, courts are set up to guarantee the free exercise of these rights.

While the theorists who hold that all rights proceed from society, do not state explicitly that all rights proceed from majorities, they must accept this conclusion if they attempt to put their theory into practice. As just shown, the doctrine of "majority rule" can lead to the oppression of a minority. Those of the minority, on the other hand, do not lose their rights because of the accidental fact that their number is smaller than that of the majority. Society, therefore, does not create rights, neither does the state. As demonstrated in the preceding section, natural rights are inherent in human beings, and they proceed from the moral law as their ultimate source.

IV. CONFLICT OF HUMAN AND PROPERTY RIGHTS

A conflict of rights takes place whenever two persons, or two groups considered as persons, claim that they are justified in having, doing, or acquiring the same thing. A clash of interests necessarily results. In the sense that the phrase, "conflict of rights," is used here, both parties cannot have a *valid* claim to the exercise of the same right. Although both have a title to the right in question, their titles are derived from different sources, one of which is higher than the other. The opposition of interests, therefore, is more apparent than real. Since conflicts of rights are constantly occurring in society, it will be well to examine the principles that are to be followed in resolving them.

A. General Principle.—The general principle which controls the problem of conflicting rights, is that the possessor of a right proceeding from a higher source, is justified in exercising his right as against the possessor of a right proceeding from a lower one. A familiar illustration is that of the man in dire need who takes food from another, who has food in abundance. In this instance there is a conflict of rights, for both persons have a just claim to the same food: the man in extreme need, because of his right to live; and the well-to-do man, because of his title of ownership. Since the right to life is based on a higher law than that of the right to own superfluous goods, the former right prevails, and the latter is suspended. The man in extreme need, may, therefore, lawfully take the food necessary for himself and his family. It is to be noted that two conditions must be present in order to justify him in taking food or other needs of life: namely, that he take only what is necessary and that he does not thereby reduce to his own necessitous condition the person whose property he appropriates. These conditions are required in order to safeguard the stability of the institution of private property.

1. *Three Rules.*—The general principle that a superior right prevails over an inferior one, forms the basis of certain rules for determining the lawful possessor of a right in a given controversy.

First: Given two rights in opposition, that one prevails whose object is more important. Thus life, which is the object of the right to live, is more important than material property, which is the object of the right of ownership. Consequently, an employee's right to a wage sufficient to purchase the necessities for his family, has a prior claim over a corporation's right to more than a moderate profit.

Second: When the rights of the community conflict with those of an individual or of a small number, the latter must yield to the former. This rule applies especially to property rights. For example, if the convenience of the public demands that a street be cut through a citizen's property, the street may properly be cut through, as the right of the general public is superior to that of an individual person or of a small number. This rule may be applied also to certain cases involving human rights; for example, the nation's right to safety and freedom is superior to the soldier's right to life. Ordinarily, however, the life of an individual may not be sacrificed for the benefit of the community.

Third: Of two rights in conflict, the one which rests on a more certain title, takes precedence. Thus the rights of a beneficiary under a legal and properly witnessed will, take precedence over those of other beneficiaries receiving bequests under an unwitnessed will.[18]

B. Unequal Distribution of Wealth.—In modern society there is a clear cut conflict of rights between the claims of human beings as such, and the claims of others as property owners. This conflict is due to what is commonly called the unequal distribution of wealth. The Federal Trade Commission reports the astounding condition that 1 per cent of the people of the United States own 59 per cent of all the property of the country. The total is divided as follows:

13 per cent of the people own 90 per cent of the wealth
87 per cent of the people own 10 per cent of the wealth

The significance of these figures lies in the fact that only one-tenth of the wealth is held by a wide range of persons in America. They form 87 per cent of the total, and include the laboring and the middle classes, land-owning farmers, small business men, and professional people. Consequently, some at the lower end of the group own nothing. In fact, the Commission discovered from an analysis of the estates of deceased persons, that over three-fourths (76.5 per cent) of those who had died, had left such trifling amounts that their estates were not probated. In other words, over three-fourths of them had accumulated practically no portion of the wealth of the country.[19] Substantially the same unequal distribution of wealth is found in foreign countries.

This condition would be more tolerable if the great body of the property-less could be sure of a constant flow of income, uninterrupted by part-time or complete unemployment; or of an annual wage sufficiently large to support them during such periods. But according to reliable estimates, over one-third (38.7 per cent) of the wage-earners in the United States receive an annual wage below $1,000.[20] Inasmuch as not less than $1,500 is necessary to purchase the necessaries of life for an average sized family for a year, it is apparent that there must be widespread suffering, sickness, and death because of inadequate income. Studies made of sickness and mortality rates in industrial neighborhoods, clearly show that the human rights of a large section of the working population are violated because of the mal-functioning of the present wage system.[21]

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[18] Sortais, *Traité de Philosophie*, T. II, p. 142.

[19] 69th Congress, 1st Session, Senate Document No. 126, pp. 56–69; see digest in the *Survey Graphic*, November 1, 1928, p. 120.

[20] Douglas, Hitchcock, and Atkins, *The Worker in Modern Economic Society*, p. 295.

1. *General Redistribution of Wealth Neither Just, nor Expedient.*—It is not to be inferred that the conflict between the human rights of the poor and the property rights of the wealthy, can be resolved by simply redistributing the wealth of the country, on the principle that the inferior rights of property must yield to the superior rights of life. An attempt to do this would throw the country into confusion and anarchy. The evils of unequal wealth distribution have been accumulating for more than five decades, and cannot be corrected at once. Nevertheless, the general principles governing the clash of rights must be taken as the starting point for any program of social justice and betterment.

2. *Need of a Redefinition of Rights.*—What is necessary above all else in society, is a redefinition of rights and duties in the light of the new conditions which have arisen during the past fifty years. While it is true that certain rights, for example, that of life and that of the integrity of the body, are permanent and constant, many others are contingent and changeable. Of the latter class, some must be contracted, others must be expanded, in order to meet the changing needs of society. Thus the farmer's right to join a coöperative selling association would have had no meaning in 1800, for the reason that the non-competitive conditions existing at that time did not compel him to seek protection in selling his commodities. Farm products were not sent into national or international markets on any large scale in 1800, and hence the farmer did not need protection in dealing with national or international buyers. But since the farmer, today, deals single-handed with the powerful agencies of the city, his interests can be safeguarded only through coöperative selling. Hence modern conditions have created for him the right of association.

In a similar way, the city worker's right to join a trade union was practically non-existent in 1800. The volume of manufactured goods at that time was small, and there was relatively little shipping of goods from place to place. As a result there was not much competition between the laborers in one city and those in another, and consequently little reason for membership in national unions. Today, however, conditions are vastly different. The railroads carry manufactured articles from one corner of the country to another. Consequently, the workers who make shoes in Brockton, are drawn into direct competition with those who make shoes in Cincinnati; and in the absence of a strong union, when the wages of the Brockton shoe makers are depressed below the living-wage level, competition drives the wages of the Cincinnati workers down to the same point. It is clear, therefore, that the industrial wage-earners of the present day can be protected only if they are freely accorded the right to enter into wage contracts which cover the entire area throughout which their products are shipped. Thus, like the farmer, the city laborer has acquired the right of joining associations or unions, because of the changes that have come over industry within the past hundred years.

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[21] Russell Sage Foundation, *Wage-Earning Pittsburgh*, pp. 113–188.

If this right, namely, that of forming coöperative societies in agricultural districts, and of organizing trade unions in cities, could be freely exercised, a definite step forward would be taken in correcting the present inequalities in the ownership of wealth. Both farm workers and city wage-earners would receive larger incomes, and gradually accumulate larger shares of the wealth of the country. As a necessary result, the conflict over human and property rights would gradually be lessened, and all would have, at least, a greater opportunity to exercise their human rights.

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QUESTIONS FOR REVIEW

1. Define and contrast "rights" and "duties."
2. Do all persons possess the same number of rights? If not, what gives one more than another?

3. Show the importance of recognizing rights and duties in society.

4. What is the meaning of the words *inviolable* and *moral* in the definition of a right as "an inviolable moral power"?

5. Define and give examples of the moral law.

6. Explain the theories of Immanuel Kant and Herbert Spencer that "a right is merely a liberty."

7. Give a brief biographical account of Kant and Spencer.

8. Show the relation of Kant's theory of rights to the subject of divorce. To the subject of social legislation.

9. Define *individualism; laissez-faire.*

10. Show how a policy of *laissez-faire* affects wage-earners. Child laborers.

11. Under a rigid policy of *laissez-faire* what protection would there be for the weak?

12. Spencer evolved the doctrine of the "survival of the fittest." Show its significance for human beings.

13. What are natural rights? Give examples.

14. What are positive rights? Give examples.

15. Show how rights originate in the moral law.

16. Show how man's rights are an evidence of his dignity.

17. Are natural rights possessed by organizations or corporations? Explain.

18. What is the "state origin" theory of rights? Evaluate it.

19. If the state is the origin of all rights is an oppressed people ever justified in overthrowing an existing government?

20. What is the theory of the creation of rights by society? Evaluate it.

21. Must one be of benefit to society in order to enjoy its protection and privileges?

22. Show how a majority has it in its power to violate the rights of individuals.

23. What is meant by the conflict between property rights and human rights?

24. Set forth the general principles controlling the problem of conflicting rights.

25. Give examples of conflict of rights in modern society.

26. Can a right which did not exist a hundred years ago exist today?

27. Why is it necessary to define rights in terms of new conditions?

CHAPTER IV

JUSTICE

I. SOCIETY A MORAL ORGANISM

II. DEFINITION OF JUSTICE

A. Objective Justice—B. The Psychological School—C. Erroneous Theories and Their Consequences—D. Objective Justice and Human Equality

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A. Legal Justice among the Greeks—B. Social Justice

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A. Twofold Function of Distributive Justice—B. Adam Smith's Canons of Taxation—C. The Faculty Theory of Taxation—Retributive Justice

VII. COMMUTATIVE JUSTICE

A. Requirements of Commutative Justice—B. Commutative Justice and Human Values—C. Present-Day Applications

Man is born in society with needs that can be satisfied only in society. This is the meaning of the expression, "man is a social being." His nature is such that he must work and live with his fellow men. It is only in this way that he can secure the necessities of body and soul. In response to an innate attraction for companionship and coöperation, both savage and civilized peoples group themselves together in tribes, communities, nations, and states.

This attraction or instinct for society may be viewed at close range by contrasting the mentally subnormal with the normal. The subnormal do not associate. The normal-minded do. The subnormal are usually confirmed individualists, and do not enter into group activities. Even persons who are known in the neighborhood as "peculiar" or "queer," evince this trait. As a rule, they are morose and avoid the companionship of others. Normal persons, on the other hand, are sociable and friendly, and mingle freely in the life of the neighborhood. These facts confirm the opinion that men are naturally drawn to life in society, and that this attraction is an innate human tendency.

Because of this tendency, human beings do not live isolated and alone, but form clans, tribes, villages, and communities. It is interesting to observe how such groupings, whether cities of civilized men or villages of agricultural barbarians, develop oneness of action in their community life. In the first place, they divide and subdivide their work and occupations. Some persons do the rougher, coarser tasks; others, the more skilled and delicate. Those who succeed in getting themselves recognized as leaders, draw up laws and rules, which they force others, even up to a majority, to observe. In a word, the group becomes one in purpose and action, so that its coördinated life resembles that of the human body or of one of the animals.

I. SOCIETY A MORAL ORGANISM

The facts just stated have led many modern philosophers, particularly Herbert Spencer, to call human society an organism.[1] An organism is a living being—plant, animal, or man—that is capable of carrying on its vital activities by itself, through the coöperation of its mutually dependent parts. The parts work together for the welfare of the whole being, and they do this in response to an internal principle of life, which gives unity and common purpose to their activities. Briefly, each part works with every other one, for the benefit of all, and each shares in the common benefit.[2]

It is fairly accurate to compare human society to an organism, provided the analogy is not urged too far. There is, for example, the danger of regarding the great mass of men and women as placed in society for the most menial tasks only—to act as the feet of the organism; and of regarding a very small number as destined by birth for none but the higher functions of thinking and directing—to serve as the head or the mind. This view is highly derogatory to the human personality of the great mass of working people. Every person carries within him the purpose of his own being. It is false to say that some persons are born to labor and to toil merely to make life pleasant and congenial for others. Finally, it is contrary to common observation that persons are held in iron-clad social compartments from which they cannot escape. Within even a single generation, men and women move up the social ladder and down again; or, vice versa. Thus it is said that in the United States there is only one generation between shirt-sleeves and shirt-sleeves. Human society is in a constant state of flux. It is dynamic, never static. Consequently, to consider society as a physical organism, opens the way for a purely materialistic interpretation of life. This danger, however, can be averted by regarding society as a moral organism, that is, one held together by certain moral forces.

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[1] *Synthetic Philosophy*, 3rd ed., Vol. I, pp. 449–462.

[2] For further explanation of the organic theory see Leacock, *Elements of Political Science*, pp. 76–83.

The chief moral force that holds together the moral organism of society, and coördinates its parts to achieve a common end, is a form of justice known as legal justice. The effects of legal justice in society are similar to those of an electric magnet on tiny particles of steel heaped together. If a magnet is thrust into a handful of steel filings, the filings arrange themselves in order under the "pull" of the electric energy. This may illustrate the organizing function of legal justice in society. It is to be noted, however, that there is an important difference between the electric current and legal justice. This will appear from the treatment of legal justice in Section IV of this chapter. It will be seen that legal justice is not a material force, like that of a magnet. It is rather like the living principle in a plant, animal, or man, which regulates the proper functioning of the cells and organs for the good of the entire being. Besides legal justice, there are two other forms, namely, distributive, and commutative. Each will be explained in detail in this chapter, but, first of all, it will be necessary to examine the nature and functions of justice in general.

II. DEFINITION OF JUSTICE

The earliest definitions of justice come from the ancient Greeks. Aristotle says: "We see then that all men mean by the term justice a moral state such that in consequence of it men have the capacity of doing what is just, and actually do it, and wish it." [3] According to St. Augustine, "Justice is a virtue which renders to every one his due." [4] St. Thomas says: "Justice is a habit whereby a man renders to each one his due by a constant and perpetual will."[5] A person may therefore be said to be just when he has the permanent intention of respecting the rights of others, and lives accordingly.

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[3] *Nicomachean Ethics*, Book V, Section I.

[4] *De Civitate Dei*, Lib. XIX, Chap. XXI.

From these definitions it is evident that justice is an other-regarding virtue. In this respect it differs from prudence or courage, which are primarily self-regarding. A person who is prudent or courageous is prudent or courageous mainly with reference to himself, that is, in promoting his own interests. On the other hand, a person who is just, can be just only with reference to someone else. Strictly speaking, no one can be unjust to himself, or owe himself anything, in justice. This would be like saying that a man owed himself ten dollars, or that he cheated himself of this amount, which is, of course, absurd.

A. Objective Justice.—To understand the essential nature of justice it is necessary to consider the word *justice* in a sense quite different from that just explained. In the definition of Aristotle, justice is called a "moral state." In that of St. Augustine it is called a "virtue"; in that of St. Thomas, a "habit." These terms stress the idea that justice is an attitude of mind, possessed by those who are just. Accordingly, justice is something inherent in human beings. In this sense it is subjective, that is, it is *in* the minds of persons.

It should not be inferred, however, that justice is something purely subjective. It would be a serious error to say that justice exists solely in the minds of men. In fact, its presence in the mind is a consequence, or rather, a reflection, of its existence outside of the mind. The knowledge that men have of justice is possible because justice is an external norm or criterion of right. This norm or criterion is objective justice. Objective justice may be defined as that rule or law which requires human beings to observe equality and proportion in their dealings with one another. Consequently, if the citizens of a community are uniformly fair and just to one another, the subjective justice, which they observe, is a reflection of objective justice. On the contrary, if they transgress one another's rights by dishonesty or oppression, they lack subjective justice, and objective justice is violated. Objective justice may be likened to a spirit level used by a stone mason. If the course of stone he has laid is level, the instrument will show the bubble to be at the center of the glass tube. This means that the top line of the wall is parallel with the plane of the horizon. Similarly, if the individuals in a community are universally fair and just to one another, their conduct coincides with the demands of objective justice. The need of insisting on the objective nature of justice will appear from a review of the theories which make justice a purely subjective experience.

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[5] *Summa Theologica*, 2, 2 ae, Q. 58, A. 1.; translation by the Fathers of the English Dominican Province, p. 115. Unless otherwise indicated all succeeding references to St. Thomas are to the *Summa Theologica* and to this translation.

B. The Psychological School.—Representatives of what is known as the psychological school have denied the existence of objective justice. According to this school justice is merely the product of human opinion or feeling. The more prominent English philosophers in this group are Thomas Hobbes (1588–1679), John Stuart Mill (1806–1873) and Herbert Spencer (1820–1903). Hobbes held that when man lived in a state of nature, that is, before he set up a government, justice did not exist. "The notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice."[6] But when man established a commonwealth he created justice. Thus Hobbes held that justice originates in the deliberate acts of men.[7] John Stuart Mill likewise denied the objective nature of justice. He taught that justice is not fixed and permanent, but shifts with human estimates of what is useful or socially expedient. Mill wrote: "Justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others; though particular cases may occur in which some other social duty is so important, as to overrule any one of the general maxims of justice."[8] Finally, according to Herbert Spencer, justice is synonymous with sympathy, or fellow-feeling. All the actions commonly classified as just, "spring from the sympathetic excitement of the instinct of personal rights."[9] Thus A pays a debt of $100 to B, not because any law of equivalence requires him to do so, but because he has a fellow-feeling or sympathy for B.

C. Erroneous Theories and Their Consequences.—The general acceptance of the theories which deny that a law of justice exists independently of men's thinking, would lead to disastrous consequences. A state of anarchy would inevitably result if men were to live and act on the assumption that justice is identical with what each individual's sense of utility or gratitude seems to dictate. The bedlam that would ensue might be compared to a game of baseball in which all rules were ignored, and each one taking part was permitted to make his own decision on every play. A game that follows no rules is marred by wrangling and disputes. It simply is not a game, for a game implies orderly procedure. Similarly, any society that would attempt to function without recognizing the existence of objective justice, would end in chaos.

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[6] *Leviathan*, Chap. XIII.

[7] *Ibid.*, Chap. XV.

[8] *Utilitarianism, Liberty and Representative Government*, Everyman's Library, p. 59.

[9] *Social Statics*, p. 51.

The denial of objective justice is forcibly illustrated in time of war. In a war, each side insists on the justice of its claims, no matter how sordid or selfish its real purposes may be. It is clear, however, that both sides cannot be in the right, though both may persuade themselves into thinking so.[10] In other words, justice does not originate in the mind of man, nor is it altered in any way by his reasoning; it is not a projection of human thought or imagination, nor is it a mere sentiment of gratitude or sympathy. On the contrary, it is an objective rule, imposing itself on men's lives from without. Every normal person catches the voice of justice with the ear of his conscience. While the difference between justice and injustice cannot be described in concrete terms, nevertheless, every person is as conscious of the difference as he is, for example, of the difference between the taste of a bonbon and that of an aspirin tablet. Carlyle writes: "We say also that any given thing *is* unjust or else just; however obscure the arguings and strugglings on it be, the thing in itself there as it lies, infallibly enough, *is* the one or the other."

The ancient Romans showed their belief in the external nature of justice by personifying it. To them justice was a goddess,—*Justitia,* whom they worshiped. Their statues of the goddess usually represented her as holding aloft a balanced pair of scales in one hand, and clasping a sword with the other. Her eyes were closed and blindfolded. The entire figure was intended to convey the idea that justice is even-handed and impartial, and that it fixes an objective rule of right and wrong, regardless of how the unjust may seek to pervert it. Most appropriately, a statue of Justice occupies a prominent place at the entrance to the International Labor Office of the League of Nations in Geneva.

D. Objective Justice and Human Equality.—The external and impartial nature of justice corresponds to the fundamental equality of human beings. Justice requires that all be dealt with impartially and without favor, because before the moral law no one is of more essential importance than another. All stand on an equal footing before justice, which is no "respecter of persons." The circumstance of great wealth or powerful family connections, does not add to anyone's right to life nor to his right to comfort and convenience, if the natural rights of others, who lack wealth or social prestige, would thereby suffer impairment. Justice, therefore, assumes that there is a fundamental equality of human dignity in all men, women, and children, and that their basic rights to life and growth are identical. In this sense it may be said that the foundation of justice is the dignity of the human person. Hence, citizens and aliens, friends and enemies, the civilized and the savage, the wealthy and the poor, the strong and the weak, enjoy absolute equality before justice. The ultimate reason for this equality is the fact that *all* human beings have been placed in the world for an identical purpose, namely, to prepare for an eternal existence.[11]

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[10] See Chap. XII.

III. FUNCTIONS OF JUSTICE IN SOCIETY

After a consideration of the nature of justice, it becomes necessary to examine its functions. The chief function of justice in society is to maintain order. This it does by protecting rights. Dr. Kerby writes: "The sanctity of justice is independent of the mistakes of its passionate expression. Not all the horrors of revolution, nor the blood that has been shed, nor the price that has been paid for the human rights that have been gained can affect the essential rôle that the sense of justice must play in all organized social life. The strong must love and respect justice. The weak must seek it."[12]

It will be recalled that a right is a moral faculty, empowering a person to exclude others from the enjoyment or possession of the object over which he exercises his right. Hence a right always assumes that a relationship exists between persons, or, in other words, that man lives in society. Outside of society, rights have no meaning. Within society, however, rights need protection. They cannot stand by themselves. So far as their enforceability is concerned, rights may be likened to the bolts and locks on the doors of a house; and justice may be likened to the added protection given the bolts and locks by the police department and the courts.

A. Justice Protects Rights in Two Ways.—Justice gives protection and security to rights mainly in two ways: first, through moral sanctions, and secondly, through civil sanctions. The moral sanctions operate through the moral law, by obliging every person in conscience to respect the rights of others. The civil ~~sanctions operate through the laws of the~~ city, state, or federation of states, and impose fines, imprisonment or even death, on transgressors. Frequently, the two sets of sanctions overlap, by forbidding the same acts. For example, both the law of conscience and the law of the state forbid stealing. There are, however, numerous instances where justice operates only through the law of conscience. Thus, if A has defrauded B of $1,000, and a civil court exonerates him because the evidence is insufficient, or because the law does not cover the peculiar type of fraud that he has practised, he is nevertheless guilty in conscience of an injustice to the extent of $1,000. Thus the justice required by the law of conscience is more comprehensive than that required by the law of the state, and binds individuals to just conduct even in the absence of civil sanctions.

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[11] Vermeersch, Pamphlet, *Principes de Morale Sociale,* No. I, p. 28.

[12] *The Social Mission of Charity,* p. 56.

B. Society is a Juridical Institution.—In technical language, human society is a juridical institution. It is called a juridical institution, because it is founded on natural and acquired rights, which everyone is obliged to respect in justice. Society is not founded on the reciprocal claims that persons have on one another on the grounds of charity. To illustrate, a man cannot be brought into court because he failed to assist a family in distress, but he can be brought into court if he has defrauded the father of that family by selling him worthless securities. Organized society, therefore, rests on justice and not on charity.

C. Practical Applications to Government and Industry.—It is particularly important for statesmen and industrial leaders to remember that society is a juridical institution, namely, that it rests on the bed rock of justice, and not on charity. While charity is an extremely necessary social force, it is not the basis of society. Unwise policies, based on a mistaken concept of human relations, are sometimes adopted by legislatures and industrial corporations. To illustrate, a government that fails to search out and remove the economic causes of poverty, and contents itself with maintaining elaborate systems of relief, is proceeding on a false premise. If some of its citizens are actually in need, investigation should be made as to whether or not their just rights are being invaded by their stronger fellow citizens. It is the primary duty of the state to stamp out such injustices when they are found to exist. For example, the right to a decent family income in return for useful labor is a right conferred by justice on farm and city workers. If this right is allowed to be violated, no system of public charity in the form of cash aid to farmers, or poor relief to city dwellers, can take its place. This would be a misconception of the purpose of organized government.

To repeat, human society is a juridical institution, and the primary function of a government is to see that the just rights of its citizens are protected. This is done through the enforcement of justice. It is only after all reasonable efforts to protect legitimate rights have been made, that elaborate systems of poor relief should be undertaken. Incidentally, the volume of poor relief will be greatly decreased if the basic requirements of justice are enforced by the state. A more complete treatment of this question will be given in Chapter X, which explains the aims and functions of the state.

Another example of the disregard of the juridical character of society may be found in certain manufacturing establishments. Many industrial corporations have developed activities known as welfare systems. These systems provide shop libraries, medical and dental service, life insurance, old-age pensions, athletic fields, band concerts, and even housing for workers and their families. In some instances, these plans are prompted by humanitarian motives on the part of the management of the corporation. In others, they are maintained in order to induce wage-earners to remain residents of the locality, and thus virtually to force them to accept the wages and working conditions agreeable to the employer. In either case, the workers usually resent these activities, as savoring too much of charity. This is only a natural reaction to the false conception that society is founded on charity. If the welfare activities just described are undertaken for the purpose of evading the demands of justice, the effort must ultimately fail, for it is opposed to the fundamental principle that society is a juridical institution.[13]

IV. KINDS OF JUSTICE

It is customary to distinguish three kinds of justice,—legal, distributive and commutative. The expression, "kinds of justice," as it is used here, does not mean that there are three mutually exclusive types or classes of justice. In essence, justice is one, for, in each of its several forms, it makes an identical demand, namely, that equivalence or proportion be observed in conduct. Any action or dealing is just when it conforms to the measure or criterion of equality. Hence, as St. Thomas teaches, justice requires that things be equalized or "adjusted."[14] He explains this rule in these words: "And therefore the divine law has made provision for the preservation of peace and concord amongst men by the practice of justice. It commands that to every man be rendered his due, as honor to parents: that none be harmed or hindered in the enjoyment of the good that belongs to him, whether by word,—hence the prohibition of false witness,—or by a deed touching his person,—hence the prohibition of murder,—or by a deed touching a person allied to him, —hence the prohibition of adultery,—or by deed touching his property,—hence the prohibition of theft.''[15]

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[13] Antoine, *Cours d'Économie Sociale*, 6^{me} ed., p. 144.

[14] 2, 2 ae, Q. 57, A. 1.

The three kinds of justice,—legal, distributive, and commutative,— correspond to the three classes of relations which every human being bears toward his fellow men, and which his fellow men bear toward him. These relations are of three kinds: first, those of the individual to the community; secondly, those of the community to the individual; and thirdly, those of the individual to other individuals. Legal justice regulates the first set of relations; distributive justice, the second; and commutative justice, the third.

V. LEGAL JUSTICE

Legal justice governs the relations of the individual to the state. It may be considered from two standpoints; either as a virtue, or as an external measure of right. Regarded as a virtue, legal justice is an internal disposition which inclines a person to work for the good of the community, chiefly by observing its laws. Considered as an external measure or rule of right, legal justice is the proportion or equilibrium which requires the individuals of a community to work toward the common good. This distinction between a subjective virtue and an objective norm also applies to distributive and commutative justice.

Whether viewed as a virtue or as an external norm, legal justice is concerned mainly with the observance of laws; hence the name, legal justice (Latin, *leges*). This does not mean, however, that legal justice does not require a citizen to do anything more for the community than the laws of the state demand of him. In fact, the community has the right to require its citizens to do all things within their power to promote the general well-being. In the case of some persons, this may mean giving and serving in excess of the bare requirements of law. Thus physicians, teachers, police officers, and firemen, are bound by the traditions of their calling to perform services in behalf of the community over and above those strictly required by the laws of the state.

A. Legal Justice Among the Greeks.—The wider concept of legal justice, as just explained, is traceable to the ancient Greek philosophers. To the Greeks, a law was more than a written statute. Their word for law, *nomos,* included every form of legitimate control that the city-state could exercise over its subjects. In fact, the primary meaning of *nomos* was usage, custom, or convention; and the meaning of positive or written law was only secondary.[16] Hence the Greek citizen was obligated to shape his conduct according to the generally accepted ethical and religious customs of his fellow townsmen. In addition, he was subject to the laws of Solon or Draco.[17] These forms of social control were found to be necessary to preserve security and well-being in the Greek city-state.

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[15] *Summa Contra Gentiles*, III, cxxviii; translation by J. Rickaby, S. J.

Modern society, too, requires of the citizen certain duties of a public nature over and above those prescribed by positive legislation. Hence, even in the absence of written laws, legal justice obliges the members of a community to do their proportional share in advancing the common good. For example, an American citizen is obliged by legal justice to vote, and if qualified, to offer himself as a candidate for public office, although there is no express law requiring him to do either. He may also be obliged by legal justice to give of his time and experience e. g., in serving on the local school board, or other public commissions, for which the compensation may be very small, or even nothing.

Legal justice acts as a bond of unity and order in the state by imposing definite obligations on both the governing and the governed. In the first place, it makes certain demands on persons in public office. It requires the members of legislatures to discover, so far as they can, what laws will best promote the common welfare. Judges, similarly, are obliged to interpret laws with an eye to the public interest. A like responsibility rests on officials in the executive branch of the government. Secondly, private citizens are bound by legal justice to observe civil laws, and even in the absence of laws, to aid in promoting the best interests of the community. As stated in the beginning of this chapter, society is a moral organism. This means that legal justice puts every person in society under a moral obligation to perform his proper functions toward the entire social body. The phrase ''entire social body'' has a very wide extension at the present time. The transportation and communication facilities resulting from the application of steam and electricity, have brought the nations of the earth into close contact with one another. Electricity, it has been said, has given the world a common nervous system. As a consequence, the duties of individuals to the social body extend not only to their own nation but to all nations. Hence legal justice obliges individuals to obey not only the civil institutions of the government under which they live, but also such world legislatures and courts to which their governments may solemnly pledge themselves.

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[16] Aristotle, *Nicomachean Ethics,* Book V.

[17] Pound, in *The History and Prospects of the Social Sciences,* p. 444.

B. Social Justice.—In recent years the term "social justice" has more or less replaced the term "legal justice." Some writers object to the change on the grounds that "social justice" covers the same field of relations as that covered by "legal justice," and that nothing is gained by attaching new names to phenomena that are already properly designated. It is to be noted, however, that although "social justice" governs practically the same jurisdiction as does legal justice, nevertheless, it involves certain duties to society over and above those required by actual statute and custom. For example, all the community and philanthropic activities of a "public spirited" man are not, as a rule, demanded by legal justice. In this broad sense, the term "social justice" can hardly be objected to; rather, it proves of value in classifying human relationships.

VI. DISTRIBUTIVE JUSTICE

Distributive justice governs the conduct of the community in its dealings with the individuals of which it is composed. As its name indicates, distributive justice has to do with distribution. It obliges legislatures and public officials to distribute equitably the benefits and the burdens of the state among citizens, according to their needs, merits, and abilities. In the future, as legal and juridical relations among states become more complex than they are at present, and necessitate the establishment of a world legislature and tribunal, distributive justice will require a similar equitable distribution of benefits and burdens among the various nations.

A. Twofold Function of Distributive Justice.—A twofold function of distributive justice, therefore, may be distinguished: (1) The equitable apportioning by governmental officials of offices, honors, and benefits; and (2) the equitable apportioning of public burdens, especially taxes. The first of these functions regulates the field of activities in which the state is considered as a dispenser of goods. The second regulates the field of activities in which the state is considered as an exactor of duties.

1. Foremost among the activities of the first class, is the making of appointments to public office. Under the American system of government, Federal, State, and Municipal officials acquire the right to make

many appointments by virtue of their election to office. But this right is not an arbitrary and unrestricted one. Distributive justice requires that it be exercised with due regard for the abilities and merits of prospective appointees. Hence, the "spoils system," according to which a man or woman is appointed to public office solely because of services to a political party during an election campaign, is a direct violation of distributive justice. Violations may occur also in disposing of the national domain and natural resources. Thus the transfer of government-owned lands, water-power sites, oil and coal fields, and irrigation sites, without fair compensation to the Federal treasury, is directly opposed to distributive justice. Such transfers, whether effected through bribery or not, are clear acts of partiality or favoritism to a few, and violate the central requirement of distributive justice, which demands that the apportionment of benefits and favors be equitable to all.

The distribution of public goods may be viewed also from another standpoint. There are certain classes of persons in every community, who on account of their peculiar weakness or misfortune, have a claim upon the public treasury for aid or support.[18] These classes include the blind, deaf and dumb, feeble-minded, needy aged, and mothers of dependent children. Funds necessary for the care and relief of these unfortunate groups are sought from state legislatures, usually through requests for appropriations. The community has an obligation toward these handicapped persons. Their claim to assistance from the community is somewhat analogous to that of a crippled or sickly child in a family. He is entitled to a larger measure of aid from his parents than are his healthy brothers and sisters. The duties of parents to children are, of course, of a different character from those of the state to its citizens. Those of parents are duties of parental piety and charity; those of the state are duties of justice and public order. Hence were a legislature to adopt a policy of unduly restricting appropriations for the care of the dependent needy, in order to be able to expend large sums on sumptuous public buildings, or literature for political propaganda, it would contravene the requirements of distributive justice.

2. The second main function of distributive justice is to maintain proportion in imposing burdens. The foremost duty in this field is the observance of proportional equality in levying taxes. Taxes are necessary because they provide funds to enable the government to carry on its work of protection and public service. Since all citizens derive benefits from

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[18] Castelein, *Institutiones Philosophiae Moralis et Socialis,* pp. 320–322.

the existence of the government, it is just that all contribute to its maintenance according to their ability. This raises the question as to the procedure to be followed in measuring these obligations.

B. Adam Smith's Canons of Taxation.—Adam Smith (1723–1790), the father of modern Political Economy, lays down four maxims of taxation, which are practical applications of the principles of distributive justice. Smith's maxims are:

(*1*) The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state." This maxim embodies the important principle of proportional taxation, which will be explained at greater length in Section C of this chapter.

(*2*) The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person." This maxim insists mainly on uniformity of tax rates, that is, the same rate should apply to all persons possessing the same amount of property, or receiving the same income; and no one in a given property or income class, should be taxed either more or less than any other person in that class.

(*3*) Every tax ought to be levied at the time, or in the manner, in which it is likely to be convenient for the contributor to pay it." The reasonableness of this rule is evident. If the tax is exacted at a time or in a way that is notably inconvenient for a considerable number of taxpayers, the system itself becomes an unjustifiable burden.

(*4*) Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state." This maxim condemns the added burdens placed on taxpayers through unwise and wasteful methods employed in collecting taxes. If, for example, the administration of the tax system requires an unduly large number of officials and clerks, their salaries will consume a disproportionately large amount of the taxes collected. Furthermore, this maxim condemns excessive taxation, which results in obstructing legitimate business enterprise. Thus men would be deterred from opening up new businesses, if they foresaw that a major part of the profits of their work would be taken by the state in the form of taxes.[19]

The chief requisites of a just system of taxation for modern states are contained implicitly in the foregoing maxims of Adam Smith. These requisites may be summarized as follows: A tax must be (*a*) proportional to the ability of the subjects to pay, (*b*) definite in amount, (*c*) convenient as to time of payment, and (*d*) economical to collect, and not unduly burdensome to legitimate productive enterprise.

C. The Faculty Theory of Taxation.—With the exception of the first, the above requirements present little difficulty. The first has been the subject of considerable discussion in recent years, and therefore will be explained at greater length with special reference to the income tax. What is said of the income tax applies also to other forms of taxation.

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[19] *The Wealth of Nations*, Everyman's Library, Vol. II, pp. 307–309.

The state should apportion its tax burdens among its subjects according to their ability to pay. This is known as the "faculty theory" of taxation, and is recognized by all fair-minded persons as a fundamental requirement of distributive justice. It is based on the general principle that grave inequality results if those who are not equals in strength, are treated as equals. For example, if every adult were taxed a flat sum of $100, regardless of his income or property, a far heavier burden of sacrifice would be placed on the poor than on the rich, and in consequence, the requirements of justice would be violated. Justice, however, requires that the costs of government be distributed according to the ability of the individual citizen to bear these costs. In other words, those who have large incomes should be taxed more than those who have small incomes.

The adoption of the principle of "ability to pay," opens the question of the manner of measuring this ability. There are two methods of measuring ability to pay: first, the flat-rate method, and second, the progressive-rate method. The flat-rate method imposes the same *rate* of tax on all income receivers. For instance, it places a rate of 1 per cent on A, who has an income of $1,500, and the same rate on B, who has an income of $150,000. Incidentally, the flat-rate system is still observed in collecting the general property tax, which provides state and local governments with three-fourths of their tax revenue.

The progressive-rate method increases the *rate* of taxation as income increases. For example, under the Federal income tax law of 1928, the tax rate is 1½ per cent on the first $4,000 of net taxable income; 3 per cent on the next $4,000; 5 per cent on the remainder of the net taxable income; and a progressive surtax rate rising to a maximum of 20 per cent on net incomes in excess of $100,000.[20] The same principle of progressively increasing the rate up to a maximum is followed in the inheritance tax law.

Of the two, the progressive-rate method more fairly measures ability to pay than does the flat-rate method, and is, therefore, more in keeping with the demands of distributive justice. During the last century, some economists, particularly John Stuart Mill, thought that the flat-rate system was an adequate method of measuring capacity to pay. But this view has been quite generally abandoned since his time, and the progressive rate is now considered a more satisfactory measure of justice. The correctness of this view will be apparent. A flat-rate tax on a yearly

[20] U. S. Treasury Department, Regulations 74, Income Tax, pp. 3–5.

income of $150,000 would be one hundred times as large as the tax on an income of $1,500. But, whereas the payment of the larger amount levied on the greater income might entail very little privation or inconvenience, the payment of the smaller amount levied on the lesser income might easily enough involve doing without many of the comforts and some of the necessities of life. In other words, the flat-rate method does not require the same proportion of sacrifice or privation of the large income recipient as it does of the small. Again, it should be noted that as wealth increases, less and less effort is required to accumulate it. It is the saving of the first thousand dollars that costs most energy and hardship; thereafter, income increases with progressively decreasing effort. In view of the great opportunities that are open to the well-to-do to become wealthy, and to the wealthy to become very wealthy with constantly decreasing effort, it is evident that the progressive tax rate is the best measure of distributive justice in modern economic society.

It is to be observed that the progressive system must be kept within two limits, a lower one where the tax rate begins, and an upper one, where the tax rate stops. First, no tax whatever should be collected from those who have very small incomes. Persons who are not receiving an income sufficient for a livelihood should not be required to pay any income tax whatsoever. To exact a tax from these, would be to deny them some of the necessities of life; and, moreover, the state would be engaging in the useless and wasteful work of taking money from them in the form of taxation and paying it back to them in the form of charity. For these reasons both Federal and State income laws set a lower limit of taxation, by exempting from taxation all incomes below a fixed minimum. The Federal exemption is $1,500 for a single person, with increasing exemptions for a married person, according to the number of his dependents.

In the second place, there should be a fixed maximum of income beyond which the tax rate is not increased. This is likewise a requirement of distributive justice. Thus under the Federal income tax law, if A's income is $100,000 per year, B's $500,000, and C's $1,000,000, all are taxed at the same rate of 20 per cent. The justice of this plan is apparent for two reasons. First, the residues of income of A, B, and C, after their taxes are paid, are used for practically the same purposes. A, B, and C, and all others in these high-income classes, live at about the same social level. They spend approximately the same amounts for necessaries and luxuries. Hence, it is fair to assess their incomes at the same rate. Secondly, the rate must be brought to a full stop at some fairly high level of income, in order to prevent the tax from becoming confiscatory. If the rate is increased indefinitely, approaching the limit of 100 per cent, a point would be reached where practically all the income of the very rich would be taken in the form of taxation by the state. This would be a manifest injustice to individuals, and, as will be shown presently, a source of great injury to society.

One of the possible dangers in the use of taxation is suggested by the word "confiscatory." It cannot be stated too strongly that taxation, when used as a device for confiscating wealth in order to equalize it, becomes an instrument of injustice and oppression. Confiscatory taxation is not only unjust to the possessors of great wealth; it is detrimental to the interests of the community itself. The fourth maxim of Adam Smith declares that every tax should "be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state." One of the ways, according to Adam Smith, by which a tax may take out and keep out of the pockets of the people more than it brings into the public treasury, is by applying an abnormally high rate of taxation. He says: "It may obstruct the industry of the people, and discourage them from applying to certain branches of business which might give maintenance and employment to great multitudes. While it obliges the people to pay; it may thus diminish, or perhaps destroy, some of the funds which might enable them more easily to do so."

Smith argues, therefore, that excessive taxation is improper, because it would deprive the community of the capital necessary to start or continue new enterprises. This is a social reason. It is not, however, the only reason that may be urged against an excessively high tax. A tax of this kind is unjust. It is unjust because it would take from individuals something which properly belongs to them, and to which, it must be presumed, they have a just title. In a word, it is confiscatory, and therefore, violative of distributive justice.

D. Retributive Justice.—A final aspect of distributive justice is concerned with the meting out of punishment for crime. This aspect of distributive justice is known as retributive justice. Retributive justice obliges public officials to observe a certain equality and proportion in punishing criminals. Inasmuch as every government has the primary duty of protecting the community against the criminally inclined, it finds itself obliged to set up a system of courts for the purpose of proving crime and injustice, and of fining, imprisoning, or even executing, those who have violated the rights of others.[21]

In this field, as in others, justice requires that proportion and equality be maintained. Punishment must be measured according to the seriousness of the offense. Obviously, some crimes are, in their very nature, graver than others. For example, there are varying degrees of crime against the person of a citizen. The law properly distinguishes between a first-degree murder and one of the second or third degree; and provides corresponding penalties. Likewise, there are varying degrees of crime against a citizen's property. It is a more serious matter to break into Mr. Blank's home and steal $1,000 than it is to defraud him of a like sum by selling him fictitious timber lands. Retributive justice obliges public officials, lawmakers, judges, and juries to take account of these varying classes of crime, and to impose penalties according to their gravity. This is the meaning of the principle that proportion and equality must be observed in the administration of justice.

It is obviously the duty of a government to respect the demands of retributive justice. A government meets this requirement by providing legal penalties, commensurate with the gravity of crimes, and by obliging its judges to enforce these laws, regardless of the wealth or position of criminals.

The function of retributive justice raises the much mooted question of the purpose of punishment: Why is the criminal punished? Is punishment inflicted in order to reform the offender, to repair the violated order of society, or to make society more secure? It would be a mistake to say that any one of these purposes is the exclusive aim of punishment. It would be nearer the truth to say that all three must operate together, with the third as the dominant one. The reform of the criminal must indeed be taken into account if he is sentenced to prison. As punishment is an evil, it must be inflicted in such a way as to do him the most good and the least harm. Nevertheless, the principal objective in punishment is social security. This applies both to those who are condemned to death, and to those who are given longer or shorter prison sentences. Retributive justice requires that the demands of justice be upheld, in order that society be secured against future offenses. This is the chief purpose of meting out punishment for offenses of any type, although, as stated above, the welfare of the one punished must also be duly considered.[22]

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[21] Cathrein, *Moralphilosophie*, Vol. I, 5 aufl., p. 361.

[22] Cathrein, *Moralphilosophie*, Vol. II, 5 aufl., pp. 663–687; Hobhouse, *The Elements of Social Justice*, pp. 145–146.

VII. COMMUTATIVE JUSTICE

Commutative justice is that species of justice which governs the relations between two individuals, or two parties considered as individuals, by requiring that each individual or party be given what is his own. This species of justice is called "commutative," because it has to do mainly with contracts of exchange (Latin, *commutare,* to trade or barter), though, as will be seen presently, it controls an important field of activity beyond that of buying and selling, and of other dealings involving purely economic considerations.

According to the definition just given, commutative justice regulates the relations between two individuals or between two parties regarded as individuals. To illustrate: commutative justice requires that if A purchases a set of books from B for $25, he must pay B $25. Likewise, if A purchases printed documents from the United States Printing Office for $25, he must pay the United States Government $25. In the latter transaction, from the standpoint of justice, the United States Government, though not an individual, is considered as such. Commutative justice governs also the relations between two groups considered as individuals. Thus nations are bound in the same way as individuals to observe strict justice. For example, one nation may not annex the territory belonging to another simply because it is strong enough to do so. If this is done, the responsible heads of the conquering nation incur the penalties of the moral law, and the nation is obliged to restore the unjustly acquired territory.

A. Requirements of Commutative Justice.—According to some writers, commutative justice is the only type of justice that properly deserves the name, for the reason that it alone deals in exactly measurable values; and, moreover, it alone assumes that the contracting parties are completely distinct from each other. Thus, when A borrows $50 from B, the amount that A owes B because of this transaction, is capable of precise determination. It is $50. The case is somewhat different when A manages to evade part of his taxes, for example, to the extent of $50. This is a violation, not of commutative, but of legal justice, which obliges A to bear his proportional share of the expenses of government. In this instance, however, it is difficult to determine whether or not A owes the state exactly $50 because of his evasion of his taxes to that amount. Perhaps his actual debt is more, perhaps less, than $50. The assessment made by tax officials is at best only an approximation of what A or any other citizen owes. It is to be remembered, however, that apart from the inability of determining the exact amount of taxes owed by each person, in practice the amount of taxes levied on each taxpayer is the sum that he is obliged to pay. But the point to be stressed here is that the sum due to the community in taxes by virtue of legal justice, cannot be determined with the same accuracy that is possible in transactions governed by commutative justice.

Moreover, in the transaction just alluded to, between an individual citizen and the government, there is not the same clear-cut distinction between the parties to the contract that exists in a transaction between individuals. The reason is this: An individual citizen in his dealings with the government negotiates with a party of which he himself is a constituent part; whereas, an individual transacting business with another individual, deals with an entirely distinct person.

These examples are introduced to show that commutative justice is unique, inasmuch as the value of the "thing due" is capable of accurate determination, and moreover, the parties to commutative transactions are completely distinct from one another. The former consideration leads Aristotle to call commutative justice "corrective justice." By this he means that if one person owes another $1,000, because he has borrowed or stolen that amount from him, the only way that the matter can be rectified or "corrected" is by the payment of $1,000.[23]

This requirement of commutative justice is explained by St. Thomas as follows: "Hence it is necessary to equalize thing with thing, so that the one person should pay back to the other just so much as he has become richer out of that which belonged to the other." [24] Commutative justice, is, therefore, the justice of exact values, and it is satisfied only when each party finds himself in possession of what is his own, neither more nor less.

Thus far, commutative justice has been considered mainly with reference to buying and selling, and in general to transactions involving property values. In all such dealings, the precise value of the "thing due" can be ascertained. This is made possible through the use of money. In the United States, the dollar is the unit of value in transferring property from one person to another. Persons in civilized society do not buy and sell "in kind," as savages do, trading, for example, three woven baskets for two haunches of venison. Accordingly, commutative values can be determined much more accurately among civilized peoples than among savages. "Money," says Aristotle, "like a measure, making all things commensurable, equalizes them."[25]

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[23] *Nicomachean Ethics*, Book V, Section IV.

[24] 2, 2 ae, Q. 61, A. 2.

B. Commutative Justice and Human Values.—Not all obligations of commutative justice, however, grow out of money contracts of buying or selling, nor out of acts of fraud or stealing, wherein the owner is deprived of his property, and the loss can be measured in an exact amount of money. An obligation of commutative justice arises when the *person* of an individual is wrongfully injured, no less than when his property is taken or withheld from him. Under the heading of "involuntary transactions," St. Thomas enumerates the ways in which a human being can be injured in his person, in direct violation of commutative justice.[26] He distinguishes between an injury done to one's physical person by killing, poisoning, or mutilating, and an injury done to one's reputation (*dignitas*), by false testimony, detraction, slander, and the spreading of false rumors. Both, he holds, violate commutative justice. Moreover, he continues, a man's rights under commutative justice are violated by any act against his kindred, for example, acts committed against his wife, children, and parents. It makes no difference in justice, he insists, whether any of these offenses is committed secretly (*occulte*) or publicly (*manifeste*). The fact that the act is committed is sufficient to make it a transgression of commutative justice.

If the more fundamental question is asked: why are offenses against one's person or reputation unjust? one must return to the bedrock principle that every individual has a right to certain immunities, solely because he is a human being. These immunities include the right to life, and normal development as a human being; the right to integrity of body; and, not least in importance—of reputation. While these goods cannot be translated into cash equivalents and, therefore, cannot adequately be compensated for, when impaired or destroyed, nevertheless, commutative justice requires that they be compensated for, insofar as this is humanly possible. This is what is known as making restitution with goods of a lower order for injuries done to goods of a higher order. St. Thomas, following Aristotle,[27] is very explicit on this point. He says: "Wherefore when that which has been taken cannot be restored in equivalent, compensation should be made as far as possible: for instance if one has deprived another of a limb, he must make compensation either in money or in honor, the condition of either party being duly considered according to the judgment of a good man."[28]

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[25] *Nicomachean Ethics,* Book V, Section IV.

[26] 2, 2 ae, Q. 61, A. 3.

[27] *Nicomachean Ethics,* Book VIII, Section XIV.

C. Present-Day Applications.—The age-old doctrine just explained finds numerous applications in present-day society. Thus a railroad company is held liable for cash damages if a person is killed at a railroad crossing because of the negligence of a gateman. It is assumed that a citizen has a right to reasonable safety on the streets or public crossings, and, consequently, carelessness is equivalent to an attack on his right to life. Likewise, in all but four of the States, if a workman is injured or killed in the course of his employment, the law requires the employer to pay a fixed sum of money to the injured worker or his nearest of kin. The same principle of compensation applies to damages to one's reputation. If a person can show that his good name has been injured, the court will allow damages for defamation of character. All of the foregoing practices are based on the doctrine that a human being has certain natural rights, and if these rights are violated either deliberately or through criminal carelessness, justice is satisfied only through the payment of a fixed sum of money. In other words, compensation is made with goods of a lower order for an injury done to goods of a higher order, and in this way the claims of commutative justice are practically satisfied.

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[28] 2, 2 ae, Q. 62, A. 2.

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QUESTIONS FOR REVIEW

1. What is the meaning of the statement: Man is a social being?
2. Is society a moral organism? Explain.
3. Define justice. Objective justice.
4. What are the theories with reference to the source of justice? Evaluate these theories.
5. What is the relationship of objective justice to human equality?
6. If justice is objective, how can a higher court reverse a decision of a lower one?
7. What is the function of justice in society?
8. Show how justice protects through moral sanctions. Through civil sanctions.
9. Explain the expression: Society is a juridical institution.
10. Define: "Legal Justice," "Distributive Justice," "Commutative Justice."
11. Explain St. Thomas' definition of justice.
12. How many persons feel that they are obliged to serve the community over and above the requirements either of positive law or of remuneration? Give names of great men and women in history who have recognized this responsibility.
13. What is the meaning of "social justice"?
14. How does distributive justice relate to questions of taxation?
15. Is distributive justice violated because some are obliged to work for a living and others are not?
16. What are Adam Smith's canons of taxation? Read a brief biography of Adam Smith.
17. What is now the most generally accepted theory of taxation?
18. Define retributive justice.
19. What guides should be set up to measure punishment for crime?
20. What are the requirements of commutative justice?
21. How is commutative justice violated when a worker is forced by necessity to accept an inadequate wage?
22. How does commutative justice protect human values? Give present-day applications.

CHAPTER V

Charity and Equity

I. CHARITY

A. Definition and Divisions—B. Relation of Charity to Justice—C. The Social Rôle of Charity

II. EQUITY

A. Definition—B. Relation of Equity to Justice and Charity—C. Legal Equity—D. Distributive Equity—E. Commutative Equity

I. CHARITY

In the preceding chapter it was seen that society is a juridical institution because it rests on justice. It is now in place to inquire whether justice alone is sufficient to secure order and well-being in society, or whether it must have the support of other forces. Accordingly, this chapter will examine the relations between justice and the two social forces commonly known as charity and equity. It will also explain the nature and functions of these forces, and show how each is an indispensable ally of justice in maintaining social order.

The relations of charity and equity to justice may be illustrated by a simple example from everyday life. In constructing a modern skyscraper, a skeleton of steel uprights and crossbeams is first erected. These are securely riveted together, and wooden forms are built around them. Liquid concrete is then poured into these forms to mold the walls, floors, and roof of the building. Finally the exterior and interior are finished in stone and woodwork, in order to make the building habitable, and to give it a pleasing appearance.

In society, justice is the steel skeleton; charity and equity are the finished walls, floors, and roof. Justice gives strength and solidity; charity and equity give cohesion, protection and warmth. Justice is the supporting structure of the building, while charity and equity adapt it to human needs. Changing the figure, justice, charity, and equity dovetail and function together to maintain social order. To discuss whether justice is more indispensable than are charity and equity, would be like discussing whether the bones of the human body are more necessary for health than are the muscles. Obviously, both the bones and muscles are necessary for physical well-being, and if either group fail to function properly, disease results. In a similar way, social ills result when charity and equity fail to supplement justice. There is, therefore, an intimate connection between the three forces, justice, charity, and equity; and each is indispensable to society.

This chapter is divided into two main parts. The first explains the nature of charity, with special reference to its rôle in society. The second part explains the nature of equity, and presents some of its more important applications to modern life.

A. Definition and Divisions.—Speaking generally, charity is an inward state or disposition which ~~prompts a person~~ to wish and to do good to others. The term, charity, is used here not in its restricted sense of almsgiving, but in its wider sense of a social force. In this wider sense, charity proceeds from two different sources. One source is purely natural,—human nature; the other is supernatural,—God Himself. God has revealed to man that all human beings are brothers of a common Father, and that they have the obligation to conduct themselves toward one another as brothers.

1. *Natural Charity.*—Natural charity is that form of charity which is based upon human nature, as created by God. It manifests itself in the humanitarian sympathy or fellow-feeling which all human beings possess. This does not mean that a common bond of feeling—barely manifest in some individuals—makes all persons responsive to the wants or misfortunes of others. As a rule, the degree of natural sensitiveness to the needs of others, varies with physical closeness to those in need of help. For instance, physicians as a class are known to give more liberally of their time and services than are the members of other professions, such as, attorneys, architects, and merchants. This difference is, in large measure, attributable to the fact that the physician goes into the homes of his patients, and learns more about their family circumstances than the average professional man does about the domestic conditions of his clients.

As a rule, the natural impulse to relieve the necessity of others springs into action in the presence of helplessness or dependency. Thus a passer-by who sees a dog attacking a child, is prompted at once to drive off the dog and rescue the child. At times fellow-feeling is so strong that it urges a person to endanger his life, by plunging into a river, for example, to save a drowning person. The sense of fellow-feeling manifests itself also in mass action. Thus, when the daily papers carry pictures of homeless flood- or earthquake-sufferers, the general public is moved at once, and contributes to a fund for relief work. This is a manifestation of the feeling of common humanity, which unites the race. It is an indication of the natural charity which men and women instinctively practise toward one another, because of their consciousness of a common origin, nature, and destiny.

2. *Supernatural Charity.*—Supernatural charity is that form of charity which urges individuals to aid the needy and unfortunate, because the needy and unfortunate are not only the creatures of God, made to His image and likeness, but redeemed by Christ and made adopted children of God. This form of charity proceeds from divine revelation, whereas natural charity proceeds from human reason and feeling. Yet supernatural charity does not inspire all the charitable or philanthropic deeds that are performed in the world. Numerous acts of kindness or natural charity are performed by individuals who quite evidently are not actuated by any supernatural motive. As was seen above, these persons are moved by natural promptings or inclinations, and particularly by the distress or pain which they experience when they see others in want. Supernatural charity does not destroy nor minimize these natural feelings. In fact, it perfects and strengthens them by encouraging persons to continue their charitable undertakings in the face of obstacles and difficulties. This it does particularly by holding out the promise of eternal reward. Hence, in addition to strengthening and stabilizing natural charity, supernatural charity supernaturalizes it.

B. Relation of Charity to Justice.—The relation of charity to justice will now be explained more specifically. It will be recalled from the preceding chapter how justice requires that everyone be given his due, and that a certain equivalence be maintained in all dealings, whether it be the exact equivalence demanded by commutative justice, or the proportional equivalence demanded by legal and distributive justice. St. Thomas draws a line of demarcation which shows where justice leaves off and charity begins. He says: "But it is not enough for peace and concord to be preserved among men by precepts of justice, unless there be a further consolidation of mutual love. Justice provides for men to the extent that one shall not get in the way of another, but not to the extent of one helping another in his need."[1]

The duties of justice are generally negative; those of charity are generally positive. Justice says: thou *shalt not* encroach on the rights of others. Charity says: treat others as you would wish them to treat you. Thus charity requires more than mere negative respect of others' rights. Justice clothes every person with an armor of rights which others may not break through. But charity goes further. It insists that you must do more than merely refrain from injuring others; you must see yourself in others, and act toward them as you would have them act toward you.[2]

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[1] *Summa Contra Gentiles*, III, cxxx; translation by Rickaby, S. J.

It should not be inferred from what has just been said, that charity and justice operate independently of one another. Even a cursory examination will show that they complement and support one another, and that neither, alone, can function successfully. In the first place, charity is the guardian and ally of justice both in individuals and in society. Without charity, justice would degenerate into an armed truce, where the difference between *mine* and *thine* are rigidly enforced; and numerous acts of violence and injustice would necessarily result. But justice is reinforced by charity, for the reason that charity restrains the natural ardor of self-seeking and self-enrichment. By requiring men to feel kindly toward one another, charity makes the duty of justice easy, as it is no great burden for a person to respect the rights of those toward whom he is kindly disposed.

Secondly, while justice does not facilitate the practice of charity in the same way that charity renders easy the practice of justice, nevertheless, it is to be pointed out that there can be no true charity unless the prior requirements of justice have been observed. In other words, charity is not a substitute for justice. Before being charitable one must be just, for charity presupposes justice. To illustrate, social order demands that an employer pay fair wages. This order plainly would be violated if he were to underpay his workers, but give them presents on their birthdays or at Christmas. This would be attempting to satisfy justice by performing sporadic acts of charity. It is clear that such acts of charity do not discharge the prior claims of justice.

Public opinion endorses the principle that charity is not a substitute for justice, when it condemns the pseudo-charity of the philanthropist who donates public parks or libraries out of the fortune which he has amassed by underpaying his workers, or by exercising unjust monopoly control over foodstuffs, fuel, or other necessities of life. Fundamentally, such procedure does not differ from that of the man who steals in order to give alms.[3] Charity, therefore, includes justice. It is the "fulfilling of the law."[4]

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[2] Kerby, *The Social Mission of Charity*, p. 83.

C. The Social Rôle of Charity.—Charity plays an indispensable part in maintaining social order. Leo XIII emphasizes this principle when he says that civilization cannot continue unless it is held together by justice and charity. He states: "It is perfectly clear and evident, that the very notion of civilization is a fiction of the brain if it rest not on the abiding principles of truth and the unchanging laws of virtue and justice, and if unfeigned love knit not together the wills of men, and gently control the interchange and the character of their mutual service."[5] St. Thomas puts this thought tersely when he says: "Of all things that man makes use of, the chief are other men."[6] In other words, from birth to death man has no need so urgent as assistance from his fellow men. In varying degrees of intensity this applies to all men, and none is excepted. Men and women, young and old, the strong and the weak, all are dependent on their fellow beings. As a result, there is originated a network of give-and-take relationships, which holds society together.

It may be well to indicate some of the more important relations in society which can be regulated only by charity and good will. These include the mutual relations between (*a*) nations, (*b*) races, (*c*) persons of different religious faiths, and (*d*) rich and poor.

Charity is world-wide in scope. It embraces all humankind. As a purely natural disposition it binds all men with a common fellow-feeling, and excludes none. As a supernatural disposition, it unites spiritually all the members of the Mystical Body of Christ, that is, all baptized persons throughout the world. Although it is impossible to foster the same degree of charitable sentiment toward foreigners as toward one's fellow citizens, nevertheless the duty of charity reaches out beyond political boundaries, as it is coextensive with humanity. Consequently, feelings of excessive nationalism, which belittle foreign peoples, or even fail to make allowance for their peculiarities, are violations of charity. Not infrequently they are the cause of petty frictions and jealousies among nations, and an important factor in causing open hostilities and prolonged wars. Charity, therefore, is indispensable in maintaining peace and order throughout the world.

Secondly, charity obliges the people of one race to treat those of other races, at least, as human beings possessing human dignity with all its prerogatives. Unfortunately, this minimum of charity is not generally observed by the white population in the United States toward the non-Caucasoid races, especially Negroes and Indians. The attitude of the American white population toward the Negroes and Indians too often has been characterized by a lack of common fellow-feeling and charity. Until this attitude is changed, the race problem in the United States will remain unsolved. The solution can be permanent and adequate to all concerned only when it proceeds on the principle that the Negro and the Indian, like their white fellow citizens, are human beings possessed of an immortal destiny, and fully entitled to be dealt with on a basis of justice and charity.

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[3] Sortais, *Traité de Philosophie*, Vol. II, p. 165.

[4] *Romans* XIII, 10; *Summa Contra Gentiles*, III, cxxvii.

[5] *Inscrutabili, The Great Encyclical Letters of Leo XIII*, p. 11.

[6] *Summa Contra Gentiles*, III, cxxviii; translation by J. Rickaby, S. J.

Thirdly, charity is indispensable in countries such as the United States, in which persons of different religious creeds live side by side. The attitude of one religious group towards another must be more than one of mere toleration or forbearance. It must be inspired by genuine charity for others, and respect for their honest convictions. Anything less than this is a menace to the order and unity of a nation. Consequently, those who misrepresent the beliefs and purposes of others, not only outrage truth, but gravely violate charity, and undermine social order and public welfare. Charity requires the accordance of the same measure of freedom in conscience to others that one demands for oneself and one's coreligionists. Thus by eliminating narrowness and ill-will, charity performs a necessary function in upholding social order.

Fourthly, charity imposes an obligation on well-to-do persons with respect to the manner in which they spend their wealth. The lavish expenditure of money, as practised especially by families that have suddenly come into great fortunes, does much to arouse the enmity and discontent of those who possess little or no property. Such expenditures are violations of charity, and are highly anti-social. They are the cause of much of the false philosophy and pseudo-economics spread among working men by ''radical'' and anarchistic leaders. Workers erroneously conclude that since the very wealthy spend vast sums on private yachts, summer homes, expensive finery, race horses, and cat and dog hospitals, the total wealth used for these purposes must be unlimited, and if it were divided among the poor, all poverty and suffering would be abolished. This is, of course, an entirely erroneous conclusion. The statistician shows without much difficulty that if the entire amount spent for superluxuries were used in producing necessities, the living standards of the masses of the population would not be notably improved.[7] Nevertheless, because of its effects on public thinking, the vulgar and ostentatious display of wealth plays an exceedingly important rôle in fomenting "social unrest," and in intensifying the sufferings of the poor. It is an obligation of charity to the community in general, and the poor in particular, to refrain from such display. Here again, charity plays an important rôle in society.

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[7] *See* Chase, *The Tragedy of Waste*, for estimates of the national luxury bill, p. 85.

1. *Justice Supplemented by Charity.*—It may be asked, however, whether justice does not sufficiently regulate social relationships, since it requires that everyone be given his due. An affirmative answer might be given to this question, if there were not numerous instances in everyday life of persons in need, whom no one, by any title of justice is bound to assist; or whom the one bound is unable or unwilling to assist. For example, A may need the immediate services of a physician for his child, who is critically ill. He asks his neighbor, B, to telephone for a physician, but B refuses. B does not thereby violate justice. He violates charity, to be sure, and gravely, but justice has no claim against him. The same is true of a passing motorist, who is stopped on the highway, and asked to take an injured person to a hospital. The motorist is within his strict rights of justice, if he refuses to help the injured person to the hospital, although he would ordinarily violate charity gravely by refusing to do so. These examples illustrate the point that there is a large field of activities which is regulated solely by charity. It is to be noted, too, that the field includes numerous instances in which the inconvenience caused to the doer of the charitable act is negligible as compared with the benefit accruing to the recipient. Charity, therefore, takes up the work left undone by justice, or which does not fall under its strict prescriptions. In other words, charity supplements justice.

The supplementary rôle of charity may be viewed more closely by considering the limited area in which justice operates in securing human well-being. Let it be assumed for the moment that a state of absolute justice prevails in human society, and that everyone is given his due according to the most exacting requirements of justice. Accordingly, no one can truthfully allege that anyone else is withholding from him anything that is his by right. Would human wants be adequately provided for under a regime of this kind? By no means. Even if justice were universally observed, the problems of caring for children, the sick, the dependent aged, and the mental defectives and incurables of various kinds, would still remain. While the number of sick and dependents can be reduced gradually through future scientific discoveries and a just distribution of wealth, nevertheless, there will always be some who are "dependents,'' beause of illness, misfortune, or personal wrong-doing. So far as justice is concerned, there is no obligation to care for these dependent groups. But charity imposes on individuals as well as on society the strict obligation of properly caring for the dependent classes because of their human dignity.

2. *The Binding Force of Charity.*—The average adult is inclined to minimize the obligations of charity. He easily falls into the erroneous habit of thinking that the only real duties in society are those of justice, and that the duties of charity are at best only counsels of perfection. Charity, he looks upon as something he is free to comply with or to disregard. This rather widespread attitude is occasioned by the fact that laws and courts define and enforce only such duties as are prescribed by justice and equity, and lay down no rules for charitable or humanitarian conduct. There is the additional circumstance that in an industrial society, such as obtains at present, public thinking tends to translate human-life values into money values. A person's reputation, for example, is measured in money; that is, in the amount of damages that he can collect if he proves in court that he has been slandered or libeled. As a result of this tendency to reduce all values to a common denominator of money, the individual comes to feel that only those obligations bind him which involve a financial loss to others, and which require him to make restitution. The fact that commutative justice imposes the duty of restitution, and charity ordinarily does not, is, doubtless, one of the most important factors in creating the false belief that justice is far more binding in its obligations than is charity, and that justice is the only valid obligation in society.

It is a serious error to maintain that justice alone has a binding authority over the individual, and that he may perform or ignore the duties of charity according to his personal inclinations. The demands of public welfare and the teachings of Christianity are in exact agreement on this point. As shown above, justice, which is the foundation of social order, must be reinforced by charity, if genuine welfare is to prevail. The scope of strict justice is too narrow to insure the welfare of the community. Beyond question, life would be intolerable if society were organized on a basis of strict justice, to the exclusion of the precepts of charity and fellow-feeling. The fact that the courts and the laws do not enforce the prescriptions of charity, does not prove that the courts and the laws are essentially defective; it merely proves that a jurisdiction of conscience exists, and that courts and laws are powerless to operate in this jurisdiction.

If the requirements of social welfare demand the exercise of charity, those of the Christian religion are no less imperative. The Christian religion does not merely approve the practice of charity, but requires it as a *sine qua non* of Christian faith. According to the doctrines of Jesus Christ, the love of one's fellow man is a duty second in importance only to that of love of God.[8] Love of one's fellow man occupies such a prominent place in Christian life that according to Christian teaching it is the deciding factor that determines the eternal reward or punishment of the individual. In the picture of the Last Judgment drawn by St. Matthew, Christ is represented as the great Judge, who identifies Himself with those in the world who are in need of any kind of charity. "As long as you did it to one of these my least brethren, you did it to me. . . . As long as you did it not to one of these least, neither did you do it to me."[9] From this clear statement it is evident that no other criterion will be used in judging mankind, than that of charity. If this conclusion appears to over-emphasize the importance of charity, it is only because the modern mind is inclined to minimize its binding force on individuals and to underestimate its important rôle in maintaining order and peace in society.

3. *Property Rights and Charity.*—One of the important functions of charity is the limitation which it places on property rights when they conflict with human rights. This sphere of charity may be explained by considering the question: Has A, a very wealthy man, any obligations to provide food, clothing, or medicine for B's family, which is in dire need, because B is tubercular and unable to work? Here there is a direct conflict between A's right to all of his property, which is far in excess of his needs, and the rights of B and his family, as human beings, which can be satisfied only with certain amounts of money, or food, clothing, and medicine. In cases of this kind the right of the property owner to a *part* of his property ceases. Hence A is obliged to help B, either directly by placing money, food and clothing in B's home, or indirectly by contributing his proportionate share to public or private relief agencies. The reason for this conclusion is that the rights of those in extreme need, are equivalent to life itself; and therefore rest on a higher title than do the property rights of those who possess wealth in abundance.

This general principle is accepted by all civilized communities. Accordingly, poor-relief offices, orphan homes, sanatoria, and free dispensaries, maintained by general taxation are found in practically every city. These works are carried on not because of any dictate of strict justice, but rather because of distributive justice reinforced by charity. Inasmuch as the major part of the tax revenues necessary for the relief of the poor and needy comes from the more prosperous persons in the community, the well-to-do, in this way, satisfy, at least partially, the demands which charity makes upon them. This, of course, does not entirely exempt them from the duty of giving to private individuals or families in need, nor from contributing according to their means to the maintenance of private charitable institutions. Thus it is evident that charity can and does place limits on property rights, and, to this extent, it plays a necessary rôle in making society function properly.

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[8] *Matthew*, XXII. 39; *Mark* XII. 31.
[9] *Matthew*, XXV. 40, 45.

4. *Industrial Relations and Charity.*—Other applications of the virtue of charity occur in the field of industrial relations. It has been customary in the past to divide the industrial population into two classes; those who employ, and those who are employed. At present, however, this division does not properly classify all the persons who participate in industry. A more accurate division calls for three classes: first, those who work for wages and fixed salaries; secondly, those who work as executives and business partners, and, at the same time, have money invested in the industry; and thirdly, those who are neither wage-earners, nor business partners, and who are interested in the industry solely because they have money invested in it. The last named group are commonly known as ''absentee owners.'' The rise to power of this group within the past fifty years is perhaps the greatest cause of the strain on good will and coöperation in modern industry.

A comparison between the methods of producing goods forty or fifty years ago and the method prevailing today, will show why the system of ''absentee ownership'' is creating friction and ill will in industry at the present time. Before the appearance of the ''absentee owner,'' employers and employees worked together in very small shops, and knew one another with a fair degree of familiarity. In dealing with his employer, the worker dealt with the ''firm.'' At the present time, however, the worker in dealing with his employer, deals with a foreman or a superintendent who is in reality a fellow worker employed by a board of directors, who control operations from a city—perhaps hundreds of miles away.[10] This development, which has separated the real owners of industry from those who work for wages, has made it increasingly difficult for the actual managers and the wage-earners to understand one another, and, consequently has increased the friction between them.

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[10] For extent of "absentee-operation" through central offices see U. S. Department of Commerce, Census Monograph, No. III, p. 149.

A. *The Class Conflict Violates Charity.*—In the middle of the last century, Karl Marx, the founder of modern Socialism, seized upon the misunderstandings and ill will between employers and workers and made these differences the ground work of his famous doctrine of the "class struggle." Marx maintained that there can be no improvement in the workers' lot unless active antagonism is kept alive between the classes. He divided society into two broad classes, a division which roughly conformed to the conditions of his time. He placed all wage-earners in one class, and all employers, investors and landlords in the other. The first group he called the exploited, or the proletariat; the second group he termed the exploiters, or the bourgeoisie. The proletariat, according to Marx and his followers, are pitted against the bourgeoisie in a struggle for a greater share of the products of industry. This struggle, or "class struggle," the Marxists taught, must be kept alive by the proletariat against the bourgeoisie; and the more bitter it becomes, the sooner the overthrow of the bourgeoisie will be effected. Through this overthrow, or "revolution," the injustices of the working classes will be corrected.[11]

However much one may sympathize with the *purposes* of the Socialist, in aiming to correct the evils of the present industrial system, one must condemn the means he advocates. The class struggle is clearly antisocial, as it tends to destroy charity, which is one of the supporting pillars of society. Leo XIII emphasizes the need of charity in industrial society when he writes: "The great mistake that is made in the matter now under consideration, is to possess oneself of the idea that class is naturally hostile to class; that rich and poor are intended by nature to live at war with one another. So irrational and so false is this view, that the exact contrary is the truth."[12] Such labor unions, therefore, as instil class hatred into their members, and insist that gains can be made only if wage-earners hate and antagonize employers and the employing class, are following a false and pernicious doctrine. These organizations can be of no benefit to workers, and would ultimately involve them in the general ruin of society.

B. *Unemployment and Charity.*—Certain duties of charity are incumbent on employers, which are not prescribed by strict justice. Thus an employer ordinarily discharges his duties of justice to his workers when he pays them a fair wage for their work. But wages in themselves are not the only matter to be considered in the wage contract. There is, for example, the matter of unemployment—the periods during the year when the wage-earner, although ready and willing to work, cannot find work. In the United States, such periods are unusually long and frequent among the unskilled. All workers taken together lose, on an average, thirty-five working days each year, through no fault of their own. An employers' commission, known as the National Industrial Conference Board, says in Research Report Number 43: "Normally, approximately one-eighth of the wage-earners in the manufacturing industries of the country are out of work and unable to buy their normal quantity of commodities."[13]

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[11] Laidler, *A History of Socialist Thought*, pp. 159, 203; Engels, *Socialism, Utopian and Scientific*, pp. 74, 75.

[12] *Rerum Novarum*, C. T. S. Trans., p. 9.

Inasmuch as the greatest amount of unemployment occurs among workers who receive the lowest rates of pay, unemployment is for the most part a problem affecting the poor. But who, it may be asked, has the obligation to remedy unemployment, and thereby prevent the suffering which it causes? In answering this question, it must be remembered that only employers can prevent or greatly reduce unemployment. Wage-earners as a class are unable to do anything to correct this evil, because they have no voice in the management of industry or the marketing of its products. On the other hand, employers, through collective action, are able to reduce unemployment considerably. The National Industrial Conference Board, the employers' group just quoted, says: "As management improves and applies its knowledge to providing greater regularity in the supply of raw materials, standardizing products, coördinating the activities of sales and production departments, reducing labor turnover and removing labor inefficiency through education . . . an incalculable but doubtless large reduction can be made in the unemployment rate."[14]

Through the general application of these remedies, therefore, employers can greatly reduce the volume of unemployment among the unskilled. But the question arises: Are they obliged to do so? Strict justice does not make this demand of them. It is here that the obligation of charity asserts itself. This obligation rests with employers, because they derive profits from industry and, in some instances, enormous profits. It does not rest primarily with the community, because the community is not directly concerned with the wage contract, and it cannot correct the evil.

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[13] p. 6. See summary and general conclusions *ibid.*, pp. 86–91.

[14] Research Report, No. 51, p. 72.

Placing this obligation on the leaders of industry is not imposing an impossible obligation on them. No doubt if employers seriously bestirred themselves in working out plans for the regularization of industry, the present percentage of unemployment could be reduced to a very small volume, and much suffering and hardship among workers would be avoided. This question will be treated at greater length in Chapter XI.

II. EQUITY

A. Definition.—Equity is a moral state or disposition which moves a person to disregard the strict letter of the law insofar as it operates in his favor, and to follow instead the dictates of justice and the common good.[15] Equity, like charity, is therefore an ally of justice. Cicero explains one of the principal ways in which equity assists in effectuating genuine justice. In *De Officiis,* he writes: "Injustice often arises also through chicanery, that is, through an over-subtle and even fraudulent construction of the law. This it is that gave rise to the now familiar saw, 'More law, less justice.' *Summum jus summa injuria.* Through such interpretation also a great deal of wrong is committed in transactions between state and state."[16] He illustrates his meaning by citing the example of the Spartan leader, Cleomenes, who made a thirty days' truce with the Greeks, and then proceeded to devastate their lands by night, on the grounds that the agreement called for thirty days, and not thirty nights, of armistice.

The rigid interpretation of an agreement may, therefore, be a source of serious injustice. The same applies to the interpretation of a law which regulates the relations between two parties. If a law is applied to every case coming under it, injustice will necessarily follow, for it is impossible for the lawmaker to take account of the exceptional circumstances that may arise after the passage of the law. In this sense Aristotle says that equity is a corrective of the law, "where the law is defective by reason of its universality." St. Thomas explains: "Legislators in framing laws attend to what commonly happens: although if the law is applied to certain cases it will frustrate the equality of justice and be injurious to the common good, which the law has in view."[17]

In his teaching on equity, St. Thomas follows Aristotle, who describes the "equitable man" as one "who is not apt to press the letter of the law on the worse side, but content to waive his strict claims though backed by the law: and this moral state is equity, being a species of justice, not a different moral state from justice.''[18] Equity may, therefore, be regarded as the sense of fairness that should guide men in interpreting the rights secured to them by agreement or law.

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[15] Adapted from St. Thomas, 2, 2 ae, Q. 120, A. 1.

[16] Book I, 33, Loeb Classical Library, p. 35.

[17] 2, 2 ae, Q. 120, A. 1.

B. Relation of Equity to Justice and Charity.—It is sometimes said that equity has its jurisdiction midway between justice and charity. The lines of jurisdiction, however, can be marked somewhat more definitely. The obligation of charity begins at the point where it is certain that a claim in justice does not exist. The obligation of equity begins at the point where it is not certain that a claim of justice does exist. This may be illustrated in the case of a family that is destitute because of the continued illness of the father. This family has no claim in justice on the well-to-do to provide it with food, fuel, or medicine. It has a claim in charity, however, and this claim is usually satisfied through a public or a private relief agency. Let it be assumed also that this family has bought furniture to the value of $300, on the instalment plan. Only the final instalment of twenty-five dollars remains to be paid. The contract covering the transaction states that the dealer has the right to remove the furniture from the home, if payment in full has not been made by a fixed date. Accordingly, the dealer has a right in strict justice to repossess the furniture, in case the family has failed to pay the last instalment by the specified day. The peculiar circumstances of the case, however, throw a grave doubt on the justice of his action, were he to remove the furniture from the home, even though the last payment is not made at all. His obligation to refrain from removing the furniture is one of equity. Inasmuch as it is not entirely certain that the obligation of justice requires him to leave the furniture in the possession of the family, equity obliges him to do so.

There are three kinds of equity, corresponding to the three kinds of justice. They are: legal equity, distributive equity, and commutative equity. Each of these forms of equity will be explained briefly, together with some of the important obligations which it imposes.

C. Legal Equity.—Legal equity, like legal justice, inclines the individual to do his part in promoting the welfare of the community. It differs from legal justice inasmuch as its obligations are less clear and unmistakable than those of legal justice. Thus the practices of some corporations, which exercise almost absolute monopoly control, are violations of legal equity. For example, a milk distributors' association contracts with farmers to take their milk supply throughout the year. A condition of the agreement is that the association is not obliged to accept the entire supply during the summer months, but that the farmers are to dispose of a certain percentage of it in some other way, for example, by feeding it to the hogs. The reason for insisting on this practice is that if more than a certain quantity of milk is brought into the city during the summer, the surplus will not yield the usual rate of profit. This is a clear violation of legal equity. It is a violation of a right of the community, although this right is not defined in law. Even though such conduct cannot be prosecuted in court, the responsible officers of the association indulging in the practice, are obliged by legal equity to discontinue it.

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[18] *Nicomachean Ethics*, Book V, Section X.

D. Distributive Equity.—The second kind of equity is known as distributive equity. It governs the relations of the community as a whole toward the individuals of which it is composed. For example, it requires fairness and impartiality in judges who preside in courts of equity. A court of equity has jurisdiction over all cases in which there is no adequate remedy in law, and in which there is a wrong to be righted. A jury may determine the facts, but does not apply the law. This is done by the judge in equity, who possesses wide discretionary powers.

The general obligations of distributive justice rest with public officials. It requires them to modify laws and court procedure in order to bring them into harmony with new social conditions, and thus secure substantial justice for the individual citizen. A notable example of distributive equity is the passage of the income-tax amendment to the Federal Constitution on May 31, 1913. This amendment has aided considerably in apportioning the burden and costs of government according to the ability of income-receivers to pay. The income-tax law is noteworthy in two respects. First, it employs the progressive system of taxation; and secondly, it taxes those who own paper wealth and securities exclusively, and who, in the absence of an income-tax law, would escape their burdens entirely. These changes in tax administration were dictated by the changes that have taken place in finance and industry within recent years, and are clear examples of the effort of the government to accommodate itself to new conditions of life, in order to protect the rights of the community. In other words, they are applications of distributive equity.

Other examples of the operation of distributive equity may be seen in the enactment of legislation regulating the activities of public-service corporations. As early as April 5, 1887, the Federal Government began to regulate the rates of railroads operating between states. It forbade unjust discrimination through special rates, rebates, or other devices, and required the tariff schedules of the railroads to be filed with a government commission. Since 1887, such supervision has progressed rapidly, so that at the present time practically all public-service corporations such as telephone, gas, street car, electric power and light, companies are regulated by the Federal or State Government, and not only as to the rates they may charge the consumer, but also as to the amount of capital stock and securities they may issue. This is done chiefly for the reason that there is a danger of exploiting the consumer of these commodities, because of the necessarily monopolistic character of the services rendered. A more recent effort to carry out the requirements of distributive equity is illustrated in the creation of the Federal Trade Commission on September 26, 1914. It is the duty of this Commission to prevent powerful firms from indulging in "unfair practices," such as temporarily underselling their competitors in order to "freeze them out," and thereby exact exorbitant prices from consumers. The above regulations have become necessary in modern times, due to the great changes that have taken place in economic life; and they represent an effort on the part of governmental officials to observe distributive equity.

E. Commutative Equity.—Commutative equity regulates the contractual dealings of two individuals or of two groups considered as individuals, by obliging them to observe the spirit of justice, rather than the literal terms of an agreement to which they have subscribed. Examples of commutative equity occur again and again in the field of contracts, when the rigid interpretation of an agreement would work a very grave injury to one party, and a lenient interpretation, only a small injury or none at all to the other. Thus if an insurance company would refuse to pay the amount of a policy because some technical error had been made in filing the application, it would violate the demands of commutative equity. In point of fact, many insurance companies pay policy claims in full, when only slight errors, or even slight misrepresentations, have been discovered in the applications for these policies.

Numerous examples might be given to illustrate the need of applying equity in the interpretation of contracts. It will suffice to point out the necessity of equity in the wage contract, particularly since there is no positive legislation in the United States requiring employers to pay a living wage. The general principle of equity applicable to the wage contract is clearly set forth in a letter of Benedict XV to the Bishop of

Bergame, France, on March 11, 1920. The Pontiff wrote: "The well-to-do should be guided in their relations with the working classes, not according to the strict demands of justice, but rather according to the principles of equity. Moreover, we pledge all our efforts in procuring in these relations the greatest possible indulgence, largeness of spirit, and liberality, and to effect all possible concessions, and moderation of private rights."[19]

Equity in the wage contract demands more than the payment of a just wage. It requires that the worker be given adequate representation in determining the conditions under which he works, and that he be given an opportunity to share in the profits of the enterprise. Consideration here will be limited to the question of equitable wages. Many employers, on their own initiative, have introduced plans by which their employees share with them in the distribution of profits. A well known example of profit-sharing is the system in operation in the Louisville Varnish Company of Louisville, Kentucky. Plans such as this, however, have been introduced in only a few establishments in the United States.

The application of equity to profit-sharing, may be clarified by recalling the three-fold classification of persons in industry given above. There is, first, the wage-earner, who receives a daily or weekly wage for his labor. Secondly, there is the employer, who has money invested in the enterprise and who works as a manager or superintendent. Thirdly, there is the investor, who has only money invested in the enterprise and gives no part of his time to its direction.

Dr. John A. Ryan argues that inasmuch as the last named person takes no active part in the productive process, and as his participation in it, is confined practically to the safe-keeping of his securities, he has no clear-cut moral claim on the profits of the industry. The compensation allowed him, according to Dr. Ryan, should be limited to the amount he would receive if he were to loan his money out on interest, plus a certain percentage of compensation for the risk which he takes in loaning his money to the business. The degree of risk incurred will vary, of course, depending on the industry, but it is possible to classify industries according to the average risk incurred by investors in putting their money into them. Over and above the sum necessary to compensate for interest and risk, according to Dr. Ryan's plan, the investor should be excluded from sharing in profits. After interest and risk charges are paid to the investor, who should receive the profits? Dr. Ryan asks. Naturally, he says, they belong to the two active groups which are responsible for the profits, that is, the employers actually working in the industry, and the workers and superintendents who provide the brain and brawn, without which industry cannot function.[20]

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[19] Valensin, *Traité de Droit Naturel*, Vol. II, p. 294.

The logic of Dr. Ryan's argument is unassailable. Although there is no law providing for the distribution of profits according to the plan just outlined, equity or common fairness requires it. It is not a valid objection to say that it is difficult to work out a system of profit-sharing that will apply to all branches of industry. Elaborate plans of old-age pensions and group insurance against accidents and death, are operating in many plants. In the case of profit-sharing, all that is required is the acceptance of the fundamental principle of equity, on which it is based, and the good will to put it into operation. The technical details will be worked out, in the same way that they have been worked out in other knotty problems of industry.

In conclusion, it may be said that there exists in modern society a multitude of major problems calling for the application of the principles of equity. The existence of these problems is the result, mainly, of the application of steam and electricity to industry since the latter part of the nineteenth century, and the consequent extension of the factory system. The development of large-scale production and large-scale capitalization has left in its wake the problems of monopoly-profits, stock watering, and the centralization of wealth and power, together with the human problems of poverty and suffering. These problems have accumulated so rapidly during the past half-century that the legal system in the United States has not been able to keep pace with them. As a result, large sections of the population are suffering real injustices, and in the present state of legal procedure laws are not able to provide a remedy.

Here is a clear demand for the application of the principles of equity. Equity, as Aristotle affirms, is a better sort of justice which corrects the shortcomings of the law. In other words, equity is the genuine justice which the law aims to establish, but is unable to realize, because laws are framed in universal terms, and cannot readily deal with constantly changing conditions. It was seen in the preceding chapter that justice is the foundation of society. It follows, therefore, that any society or nation is strong or weak to the degree that it enforces or fails to enforce justice among its citizens. But, inasmuch as equity is synonymous with genuine justice, in the sense that it is distinct from the inadequate justice of the law, a nation is safe and permanent only to the degree that individuals recognize the "better sort" of justice, called equity.

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[20] *Distributive Justice*, rev. ed., p. 227.

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QUESTIONS FOR REVIEW

1. Define charity.
2. Show the relationship between justice and charity.
3. Since laws are necessary to enforce justice in society, should laws be made also to enforce charity?
4. When speaking of man's rights, is it correct to say that others are bound in charity to respect them?
5. Show how charity arises from human nature. From the supernatural.
6. Discuss the statement: Charity is not a substitute for justice. Give examples.
7. What are the more important relations in society which should be regulated by charity and good will?
8. On what principle are fraternal societies organized? What great social value do they possess?
9. Explain how justice is supplemented by charity.
10. What is the social rôle of charity? See Kerby, *The Social Mission of Charity.*
11. Why is it difficult to make a general statement as to precisely what is just, what fair, and what charitable?
12. What obligations of charity rest on the individual? Show the necessity of religion in enforcing this obligation.
13. Explain how property rights are affected by charity.
14. Outline the application of charity to industrial relations.
15. Show how class conflict violates charity.
16. Give the place of justice and charity in employment and unemployment.
17. Define equity. How is it related to justice? To charity?

18. Give St. Thomas' view of equity.
19. Define legal equity. Distributive equity. Commutative equity.
20. How does equity apply to industrial relations?
21. Explain the following: Equity corrects the shortcomings of the law.

CHAPTER VI

History of the Family

I. THE FAMILY, DEFINITION AND PURPOSES

II. MEANING OF TERMS

III. THE EVOLUTION SERIES IN MARRIAGE

IV. THE SOURCES OF THE HISTORY OF MARRIAGE

A. Records of Prehistoric Times—B. Records of Archaic Times—C. Records of Written History—D. Records of Existing Uncivilized Peoples

V. WHAT HISTORY SAYS OF THE THEORY OF AN EVOLUTIONARY SERIES OF MARRIAGE

A. Records of Prehistoric Times—B. Records of Archaic Times—C. Records of Written History—D. Records of Existing Uncivilized Peoples

VI. SUMMARY AND CONCLUSIONS

I. THE FAMILY, DEFINITION AND PURPOSES

The family is a society, consisting of parents and offspring, established for the various purposes of marriage, the chief of which is the perpetuation of the race.[1] It is called a society, for it is essentially permanent in organization and has a well defined set of purposes and the means of attaining them. In the United States the term, family, includes only father, mother, and children, although in some parts of France and Germany, it embraces also the servants and all dependents attached to the household.

The family, in its usually accepted meaning, that is, including only parents and children, has definite purposes or objectives which are fixed by the needs and laws of human nature. Among these are the providential attraction of sex for sex, the complementary endowments of man and woman, and the parental instincts which they manifest toward their common offspring. The ends or advantages (*bona*) of marriage, corresponding to the needs and laws of human nature, are three in number: First, children, to be reared and educated; secondly, the promotion of conjugal affection and mutual assistance; and thirdly, the legitimatizing and regulation of sex activities. The first of these ends is the most important, for on the attainment of it, the permanence of the race depends.

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[1] *Semaines Sociales de France*, 1923, p. 349.

For the Christian, marriage possesses a character far above that dictated by physical and psychological needs. According to Christian teaching, marriage is not merely an arrangement prescribed by nature and subject to the law of contracts. It is, in addition, a Sacrament instituted by Christ, and indissoluble until the death of one or other of the parties. The Sacrament of Matrimony, which a husband and wife receive on their wedding-day, increases sanctifying grace in their souls, and gives them a claim to those additional graces and helps of God necessary for the proper performance of their conjugal duties. Moreover, the Sacrament supernaturalizes and sanctifies all the relations within the family; for its ultimate purpose is the salvation of parents and children. In the Christian economy, marriage possesses such an exalted character that its sacredness and indissolubility find their ideal in the eternal union of Christ and His Church.

The family is frequently referred to as the social cell, out of which the community develops. This metaphor accurately describes the relation of the family to the body politic. Every living being, whether plant, animal, or man, begins its existence as a microscopic cell. This cell divides into two parts. Each part again divides into two parts, and thus the process continues until the organism or body is completely developed. In like manner, the present organism of society may be regarded as the outgrowth of the original life which began in the first parents of the human race. Moreover, the concept of the family as the primary social cell, serves to illustrate the powers of life inhering in the race. Out of the union of man and woman, fostered by the reciprocal inclination of heart and senses, children are born, who in turn grow up to replace their parents in society. In this way, society perpetuates itself and insures its own existence. The concept of the family as the primary social cell is of value also in explaining the relations existing between the state and the family. It illustrates the fact that the state is an outgrowth of the family, and hence was of later origin than the family. The relations of the family to the state and the rights of each, will be explained more fully in the following chapter.

II. MEANING OF TERMS

The terms, used to designate the various forms of marriage relationship existing among the civilized and the uncivilized peoples of the world, will now be explained.

Monogamy is the term used to describe the practice or usage which sanctions marriage to but one person at a time. When the term monogamy is applied to entire tribes or nations, a distinction is made between strict monogamy and dominant monogamy. Thus, one tribe is said to observe strict monogamy, whereas another is said to observe dominant monogamy. Strict monogamy prevails among a people, when a man, whether chieftain or tribesman, is allowed to marry only one woman, but may marry a second in the event of the death of the first. The same rule, of course, applies to the women of the tribe: no woman, regardless of her tribal standing, is permitted to marry more than one husband, and may marry a second only after the death of the first. Strict monogamy is more common among savage peoples than is popularly supposed. For example, it is the rule among the Veddas on the Island of Ceylon [2] and among the Namib Bushmen of Central Africa.[3]

Dominant monogamy prevails among a people when it is the general practice for a husband to have but one wife until her demise, though there may be a relatively small percentage of men in the tribe who cohabit with other women besides their own wives. This condition may be ascribed to a number of causes. In some instances, it is due to a desire for display on the part of kings and chieftains, inasmuch as a large number of wives and a numerous offspring are regarded as an evidence of wealth. Again, it is due to the sterility of the first wife, or her failure to give birth to male children.[4] Thus, it is easy to understand how the vast majority of marriages in a tribe are strictly monogamous, and the rest non-monogamous. The condition known as dominant monogamy is found among the majority of primitive peoples in the world today. The Yahgans of Tierra del Fuego are an example of dominant monogamy.[5] Similarly, one may generalize and say that dominant monogamy is found among all the nomadic peoples on the Malay Peninsula.[6] Even in a civilized country like the United States, where the ratio of divorce to marriage is as 1 to 6.2, and a large percentage of divorcees remarry, strict monogamy cannot be said to be observed. The American people may be called, at best, dominantly monogamous.

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[2] Westermarck. *The History of Human Marriage*, 5th ed., Vol. I, p. 145.

[3] *Ibid.*, Vol. III, p. 23.

[4] Lowie, *Primitive Society*, p. 43.

[5] Hobhouse, *Social Development*, p. 20.

[6] Westermarck, *op. cit.*, Vol. III, p. 10; Schebesta, *Études*, Oct. 20, 1924, p. 211.

Polygyny, the opposite of monogyny, is a form of marriage relation in which one husband is united to several wives. The term, polygyny, which means many wives, is used to designate this practice, rather than polygamy, which means many marriages. It may be said that among the peoples of the lowest levels of culture, polygyny does not exist generally as an institution, and where it does exist, for example, among most agricultural tribes, it shows a definite tendency toward monogamy. For instance, where it is customary, as among the Thonga of South Africa, for a man to have several wives, the first wife is called the "great one" and those taken later are called the "little ones."[7]

Polyandry, the opposite of monandry, is the term used to describe the relationship in which one woman has more than one husband. Among savage peoples, with the exception of some tribes inhabiting the belt from Tibet to the East Indies, the practice of polyandry is so rare that it may be considered as non-existent. Professor Lowie says: "Indeed, well-authenticated cases may be counted on the fingers of one hand."[8]

Group marriage is the expression used to describe a state of sex communism existing between a group of men and a group of women, according to which each man of the group is considered the husband of each woman, and each woman of the group is considered the wife of each man. This form of marriage requires no extended discussion, as it is nowhere extant as a system. During the nineties of the last century it was erroneously believed to exist among the Hawaiians, because of a misunderstanding by investigators of the Hawaiian words for "father" and "progenitor." Morgan fell into this error, and concluded that because the Hawaiian called his maternal uncles "father," his uncles must have cohabited with their own sisters.[9]

Exogamy and Endogamy. Exogamy is the term applied to a marriage system which requires a marriageable man or woman to marry outside of his or her family, social, or village group. It is the opposite of endogamy, which requires the marriageable man or woman to marry within the family, social, or village group. Endogamous marriages, including those between blood relations, are found only rarely among low-culture peoples, for example, in Madagascar. On the other hand, exogamic rules are observed almost universally among primitive peoples throughout the world. Such rules forbid marriage not only with a person of the same class or clan, but also with persons related by blood, who are outside of the class or clan. Various theories have been proposed to explain this almost universal prohibition of marriage within the same family or social grouping. The usual explanation is that exogamy is the simplest method of avoiding the physical dangers of inbreeding. Perhaps a more correct explanation is that exogamic rules are imposed by low-culture peoples in order to enforce purity among adolescent children. These, especially brothers and sisters among them, are reminded constantly that marriage between persons so closely related will at no time be allowed. Insofar as this is a protection of chastity, exogamy aids in the protection of family integrity.

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[7] Westermarck, *op. cit.*, Vol. III, p. 32; also pp. 29, 37; Le Roy, *La Religion des Primitifs*, p. 101.

[8] *Primitive Society*, p. 45.

[9] *Ancient Society*, p. 406 *et passim.*

III. EVOLUTIONARY SERIES IN MARRIAGE

From 1870 to 1900, an attempt was made by sociologists to explain the basic social institutions, such as, the family, the state, and property, according to the theories of biological evolution. It was assumed as a starting point that man originally descended from an animal or quasi-animal, and after a long period of development, gradually passed through a state of semi-human existence and savagery, and finally reached the highest levels of civilization. In keeping with this assumption, it was held that man's social environment progressed along with his physical and mental development. As a result, the fundamental social institutions were gradually evolved from rudimentary beginnings until they reached their present degree of perfection. To illustrate, the social evolutionist holds that the private ownership of goods, which is universal in civilized society, must have originated in its opposite, the collective ownership of goods. Accordingly, goods were owned communally in the earliest stage of man's existence.[10] In like manner, the monogamous family, which prevails among civilized nations today, must have originated from its opposite, sex promiscuity. Consequently, according to the social evolutionists, a condition of sex communism must have obtained among the earliest ancestors of man, and out of this condition the modern family has by degrees developed.[11]

Lewis H. Morgan, an American ethnologist, drew up an outline of evolutionary stages, through which, he argued, the family must have passed from a primordial condition of promiscuity up to its present condition of monogamy. The principal stages or forms were five in number: the consanguine family, i. e., the intermarriage of brothers and sisters within a group; the punaluan family, based on the intermarriage of several sisters with each others' husbands, and the intermarriage of several brothers with each others' wives; the pairing family, founded upon marriage between single pairs, and continuing during the pleasure of the parties; the patriarchal family, that is, the marriage of one man to several wives; and the monogamous family, or the marriage of one man to one woman, with exclusive cohabitation.[12]

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[10] Lowie, *op. cit.*, p. 206.

[11] For further explanation of this theory, see Tozzer, *Social Origins*, p. 134; Gillette, *The Family and Society*, pp. 40–51.

In like manner Herbert Spencer writes: "We have thus to begin with a state in which the family, as we understand it, did not exist. In the loose groups of men first formed, there is no established order of any kind: everything is indefinite, unsettled. As the relations of men to one another are undetermined, so are the relations of men to women. . . . The lowest groups of primitive men, without political organization, are also without anything worthy to be called family organization: the relations between the sexes and the relations between parents and offspring are scarcely above those of brutes. Contrariwise, all civilized nations, characterized by definite, coherent, orderly social arrangements, are also characterized by definite, coherent, orderly domestic arrangements. Hence we cannot doubt that, spite of irregularities, the developments of the two are associated in a general way." [13]

The question whether the family has passed from lower to higher stages of evolution, must be approached, not with preconceived notions for or against social evolution, but with an open mind that reserves judgment until facts and data have been adduced. It must be emphasized that the theory of an "evolutionary series" as just explained, is merely a theory, and, consequently, before it is accepted, the evidence in its favor must be adequate and fairly complete. It becomes necessary, therefore, to examine the evidence on family life, as it is contained in the sources or records of history. Without anticipating the conclusions warranted by verifiable evidence, it may be said in advance that, so far as the testimony of the sources and records is concerned, the human race has lived in an essentially monogamic state from the time of the appearance of the first human beings in the world down to the present.

The sources and records bearing on the history of marriage will be enumerated first, and then examined for any information they may contain on the history of the family.

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[12] *Ancient Society*, p. 384.

[13] *Synthetic Philosophy*, Vol. I, pp. 614, 622; *Social Statics*, pp. 359–360.

IV. SOURCES OF THE HISTORY OF MARRIAGE

There are but four possible sources from which to draw in constructing the history of the family. These sources are:

A. Records of Prehistoric Times.—These records have been collected and put in their present form by modern archæologists, who have studied the human as well as the animal remains found in the earth's strata. The records cover the period from the earliest archæological stage known as the Chellean, up to and including the age of metals,—copper, bronze, and iron. In other words, they include the centuries that elapsed from the appearance of the first man and woman in the world, down to the time when human beings began to leave decipherable records of their existence.[14]

B. Records of Archaic Times.—These records contain the history of such early peoples as the Mexicans, Mayas, and Peruvians; Egyptians, Babylonians, Israelites, Persians, and Hindus; Slavs, Teutons, Scandinavians, and Chinese. The records exist today in the form of modern compilations of the legends and folklore of these peoples; studies of their laws and customs; and inscriptions on their tombs and monuments.

C. Records of Written History.—These records were written by the people themselves. They tell of the people's laws and achievements, and sometimes those of their contemporaries. They can be examined by scholars today in substantially the form in which they were originally set down. The earliest of these records date back, roughly speaking, to 2500 before Christ. Hence the period of written history begins with the era of the ancient Egyptians, Babylonians, Greeks, and Romans, approximately 2500 B. C., and extends down to the present day.

D. Records of Existing Uncivilized Peoples.—These records consist of the written reports made by explorers, missionaries, and students of ethnology, who have visited primitive tribes or labored among them. Obviously, these reports are not based on the writings of the primitive peoples themselves, inasmuch as these peoples have not yet reached the stage of culture in which they are able to express ideas in writing, or even in written symbols of any kind. Altogether, the very lowest uncivilized peoples in the world concerning whom there is trustworthy information, number about eighteen or twenty, and the discussion in Section D, below, will be limited to these peoples.

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[14] Boule, *Les Hommes Fossiles*, 2 ed., p. 49.

V. WHAT HISTORY SAYS OF THE THEORY OF AN EVOLUTIONARY SERIES OF MARRIAGE

The theory of an evolutionary series of marriage relationships, will now be examined in the light of the information furnished by the four historical sources just enumerated. As there are but four sources of evidence to draw upon in testing the theory, and as one may not go beyond the findings of one's sources, any conclusion, not based on at least one of them, must be rejected as pure speculation or guess-work.

A. Records of Prehistoric Times.—There exist today no written records that have come down from prehistoric peoples. Present-day knowledge of prehistoric peoples is based entirely on human and animal bones; stone, bone, and metal implements; some rude carvings on horn, and drawings on the walls of caves. Obviously, such fragmentary materials give no clue to the marriage rites or institutions of prehistoric times. If one examines a careful work on prehistory like Boule's *Les Hommes Fossiles,* Mainage's *Les Réligions de la Préhistoire,* Goury's *Origine et Évolution de L'Homme,* or Osborn's *Men of the Old Stone Age,* one will find that the indexes of these books do not include words such as Family, Marriage, or Status of Woman. This is not because there was no marriage, or family life, during prehistoric times, but merely because the archæologist has thus far failed to unearth any evidence bearing on prehistoric marriage or family life. He has studied the deposits of hillsides and the interiors of caverns in Southern France, Spain, Germany, and Northern Africa, and has found nothing to warrant any conclusions regarding the family organization of the archæological period. Therefore, he does not attempt to discuss the family life of that time. This attitude stands out in sharp contrast to that of the evolutionary sociologist, who without any knowledge of the marriage relationship of prehistoric ages, confidently declares that a state of sex promiscuity existed during that period.

Professor Hobhouse says that the social life of prehistoric man is a sealed book, and whatever is said regarding it, is pure conjecture and theory. He writes: "Anthropology reveals to us no isolated families, still less any isolated individual. What may have been the life of Eolithic or Chellean or Mousterian man, we do not know, and imagination and dogma have the field to themselves."[15] The records of prehistoric times, therefore, have no evidence whatsoever to offer regarding family life prior to the historical era.

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[15] *Social Development,* p. 17.

B. Records of Archaic Times.—The records, or documents, of archaic times contain the history of such ancient peoples as the Mexicans, Mayas, and Peruvians; Egyptians, Babylonians, Israelites, Persians, and Hindus; Slavs, Teutons, Scandinavians, and Chinese. It should not be supposed that there are accounts coming from all these peoples, in which they describe their family organization. Present-day knowledge of the family life of many of these nations, insofar as it is more than mere guesswork, is constructed from modern compilations of their legends, and studies of the inscriptions on their tombs.

This relatively meagre collection of writings, warrants two conclusions in regard to marriage in archaic times. First: polygyny, at least among the well-to-do and ruling classes, seems to have been somewhat general among the peoples of archaic civilizations. Secondly, even where polygyny was practised, monogamy was recognized as the more proper institution, at least to the extent that usually the ''first'' or principal wife was considered the rightful wife, and, as a rule, her children alone were her husband's legal heirs.

Westermarck quotes some comparatively recent authorities (e. g., Bancroft and Prescott) for the statement that among the ancient Mexicans, Mayas, Chibchas, and Peruvians, polygyny was permitted, ''although it was probably practised chiefly by the rich.''[16] In ancient Egypt, he says, ''polygyny seems to have been permitted, but to have been unusual.''[17] Hobhouse also describes the marriage practices of the Egyptians. Commenting on one of the Egyptian marriage contracts of the Persian and Ptolemaic period, he says: ''The wife has her own inherited property and her children's right of inheritance both to her and their father is secured. She may, however, be divorced without penalty for adultery. Polygamy seems to be excluded by the terms of the contract.''[18]

Marriage among the ancient Babylonians was at least dominantly monogamous. This appears from the Code of Hammurabi, King of Babylon, who flourished about 2250 B. C. The Code shows clearly that the Babylonians observed a fairly high degree of monogamy, although an exception was made in case of the sterility of the wife. The Code included the following provisions:

> 138. If a man would put away his wife who has not borne him children, he shall give her money to the amount of her marriage settlement and he shall make good to her the dowry which she brought from her father's house and then he may put her away.

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[16] *Op. cit.*, Vol. III, p. 38.

[17] *Ibid.*, p. 40.

[18] *Morals in Evolution*, 2nd ed., p. 184.

144. If a man take a wife and that wife give a maid servant to her husband and she bear children; if that man set his face to take a concubine, they shall not countenance him. He may not take a concubine.

145. If a man take a wife and she do not present him with children and he set his face to take a concubine, that man may take a concubine and bring her into his house. That concubine shall not rank with his wife.

148. If a man take a wife and she become afflicted with disease, and if he set his face to take another, he may. His wife, who is afflicted with disease, he shall not put away. She shall remain in the house which he has built and he shall maintain her as long as she lives.[19]

The marriage practices of the ancient Hebrews are frequently referred to in the Old Testament.[20] Moses permitted them to put away their wives ''because of the hardness of their hearts.'' Nevertheless, the home life of the Hebrews was purer than that of any other people of antiquity.[21] Westermarck summarizes the marriage customs of the Hebrews by saying: ''It is probable, however, that among the ancient Israelites, as among most other peoples practising polygyny, the bulk of the population lived in monogamy, and that in post-exilic times, polygyny was a rare exception.'' [22] As to the Persians, the same writer greatly qualifies Herodotus' statement that ''each of them has several wives, and a still larger number of concubines.'' Westermarck says: ''This, however, can hardly be true of the common people; and it also seems that in polygynous households one of the wives was the principal wife.'' [23]

It will hardly be necessary to describe the family life of other peoples of this period, for example, the ancient Slavs, Scandinavians, and Chinese. The general statement holds true: These nations also were dominantly monogamous, and though the practice of polygyny became somewhat general among them, yet the monogamous ideal, viz., that the first or favorite wife was the rightful wife of the husband, was usually adhered to.

Thus the history of the peoples of archaic times offers no support for the theory that the family has passed through an ''evolutionary series.'' On the contrary, all the available data on family life during archaic times, are directly opposed to the theory, and clearly show the universal observance of monogamy.

C. Records of Written History.—The records of written history cover the span of centuries from the epoch that began with the appearance of the earliest written documents, down to the present day. The literature of this period is so vast that it would be out of the question to examine the documents of even one decade of this long era. All that can be given, therefore, is a summary of the data on the two outstanding nations of antiquity, the Greeks and Romans, with a brief account of the changes effected by the teachings of Christianity. The documents pertaining to the Greeks and the Romans are relatively complete, and the family life of these two nations may be taken as typical of that of other contemporaneous peoples.

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[19] *The Code of Hammurabi*, edited by Robert Francis Harper, pp. 49–53.

[20] *Genesis* XXXI. 50; *Deuteronomy* XXII. 22, XXIII. 2; *Proverbs, passim.*

[21] Thwing, *The Family*, p. 43.

[22] *Op. cit.*, Vol. III, p. 42.

[23] *Op. cit.*, Vol. III, p. 44.

In describing the family life of ancient Sparta, Athens, and Rome, it is necessary to remember that slaves constituted at least one-half of the population of those city-states. A slave was regarded as a mere chattel in pagan Greece and Rome, and hence he possessed no rights at law. Consequently, the marriage of slaves, like the mating of animals, was not regarded as a marriage. The Romans termed it *contubernium,* a mere physical breeding of young.[24] Although the presence of a large number of slaves occasioned wholesale immorality among the free citizens of Greece and Rome, nevertheless, the laws and customs regulating the family life of the free population were very explicit. Thus a Spartan husband could have but one wife at a time. The same was true in Athens and throughout Greece. Although concubinage and irregular relations between slaves and free persons were rather common in Athens, and were not discountenanced by public opinion, Athenian law recognized only one legal wife and the inheritance rights of her children alone.[25]

In Rome also, the presence of a vast number of slaves gave occasion to illicit relations. As stated above, Roman Law did not recognize a marriage between a man slave and a woman slave. Since the law considered slaves as *res,* things, and not *personæ,* persons, and since persons alone are the subjects of rights, slaves were legally incapable of contracting a monogamous marriage.[26] Only the adult man of the patrician class was regarded as a Roman citizen. He alone had the rights of a citizen, which included the right to vote, to hold office, and to sue in court. When he married, his wife passed into his possession or power (*manus*), and he could slay or sell her. He also possessed the same power over his unmarried daughters and his sons' daughters. Nevertheless, the law protected the Roman wife to the extent that she was recognized as the mistress of her household, and had the right to train and educate her children. Although her position before the law was one of legal slavery, it is noteworthy that while she lived, her husband could not legally marry another woman. A marriage entered into according to the prescribed religious formula could be set aside only with great difficulty.[27] Under Diocletian, bigamy became a punishable crime. From this brief review of family life in Rome, it is clear that the monogamous family was the only legal marriage relationship, in spite of the fact that Rome was at best only "dominantly monogamous."[28]

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[24] *The Institutes of Justinian,* Lib. I, Tit. X, *De Nuptiis,* edition of Sandars, p. 110; see also Introduction, pp. 28, 86.

[25] Cf. Plato, *The Laws,* Books VI–VII, *passim;* Thwing, *The Family,* pp. 29–33; Launspach, *State and Family in Early Rome,* Chap. X.

[26] Allard, *Les Esclaves Chrétiens,* p. 248.

Christianity introduced an entirely new ideal of matrimony into society. In the first place, it taught that marriage is one and indissoluble, that is, a husband can have but one wife at a time, and vice versa; and while both parties survive, there is no cause whatsoever for which the marriage bond can be severed. Secondly, the Church taught that this doctrine applies to all, both slaves and free citizens. Naturally, the Church encountered stubborn opposition before she succeeded in securing the acceptance by pagan society of the monogamous family. The task was made especially difficult because the Church insisted that marriage between a free person and a slave was a true marriage, binding in conscience. The decree of Pope Callistus I (c. 223) declaring that such marriages are morally binding, throws an interesting light on the conditions of the time, in addition to emphasizing the clear teaching of the Church that marriage is one and indissoluble. The circumstances which inspired this decree will now be explained.

In the second and third centuries, by virtue of the larger number of Roman maidens than young men who became Christians, marriages between the Christian-convert daughters of the patrician class and Christian slaves were becoming increasingly frequent. One of the reasons why more patrician women than men of the same class embraced Christianity, was the fact that the women of the time saw instinctively that the Christian teaching of the indissoluble marriage would emancipate them from the degraded condition to which pagan ethics had reduced them. In addition, a Roman girl could become a Christian and practise her new faith unmolested by the civil authority, whereas the Roman young man, were he to embrace Christianity, could not, with a good conscience, take part in the public religious exercises which were required of Roman men. As a result, the number of early converts to Christianity was greater among women than among men. Again, Christian maidens were deterred from marrying pagan husbands, because they knew of many instances in which a pagan husband had reported the conversion of his wife, and sometimes had actually delivered her over to the civil authorities for death.[29] Finally, some Christian wives and mothers had been prevented by their pagan husbands from rearing their children in the Christian faith.

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[27] Fustel de Coulanges, *La Cité Antique*, p. 48.

[28] Dill, *Roman Society from Nero to Marcus Aurelius*, pp. 84 *et seq.*

Thus it happened that in the third century the number of Roman girls of the patrician class, married to Christian slaves, or liberated slaves, was constantly increasing. These marriages, it is to be recalled, were null and void in the eyes of the Roman law, and the persons who had contracted them were considered as living in concubinage.[30] Because of the frequency of these marriages, Pope Callistus I was asked to make a decision. He decreed that all such unions, when properly solemnized, were morally binding, regardless of the provisions of the civil law. This decree was merely an application of the Christian teaching on matrimony, which has been taught by the Church uniformly from the time of Christ down to the present.

It will not be necessary to trace the history of the changes that have been wrought in Western civilization through the Christian teaching of the oneness and indissolubility of marriage.[31] It will be enough merely to mention the great civilizing task accomplished by the Church from the fourth to the tenth century among the barbarian invaders, and what this work involved. Since the *strictly* monogamous family was an integral part of Christian teaching, and no exceptions were allowed to this rule, the task of converting the barbarian peoples to Christianity was extremely difficult.[32] It was only after a struggle continuing through more than five centuries, that Europe was finally won over to the exacting standards of morality and family life, as insisted upon by the Church. This struggle is too well known to be repeated here. It will be sufficient to add that ever since the time of Christ the Church has not merely held up the monogamous family as the ideal marital relationship, but she has unvaryingly required its acceptance as a condition, *sine qua non,* of membership in her fold.

Thus the third source of information on the history of marriage, namely, the records of written history, offers no proof to support the theory of an "evolutionary series" of family relationships originating in a primordial state of promiscuity. On the contrary, written history offers the clearest proof that monogamy, strict or dominant, has prevailed from the beginning of the historical era down to the present day.

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[29] Allard, *op. cit.*, p. 267.

[30] Allard, *op. cit.*, p. 270.

[31] Hobhouse, *Morals in Evolution*, pp. 212–218.

[32] Dill, *Roman Society in Gaul in the Merovingian Age*, Chap. III.

D. Records of Existing Uncivilized Peoples.—The records of existing uncivilized peoples consist of the field reports made by explorers, missionaries, and students of ethnology. Existing uncivilized peoples may be divided into two fairly distinct classes. The first includes the great mass of barbarian tribes throughout the world. These peoples live together in villages under a more or less stable government and possess a fairly advanced degree of culture. They till the soil, herd flocks, hunt, and in some instances, are expert in the culture of various species of trees and fruits. In their villages they practise weaving, pottery making, and, here and there, metal work. The second class includes the peoples at the very lowest level of culture. Unlike the first class, they are nomads, having only small, or temporary villages, or none at all. Usually they do not practise agriculture, but live by hunting, gathering, and fishing. Their tribal organization is very loose, and the authority of the chieftain or clan leader is extremely limited and transitory. They know nothing of the industrial arts of working metal or weaving, and have no system of writing or counting beyond two or three.[33]

The marriage practice of the better known peoples of the second class only will be described here. Consideration is limited to this group because it is certain that these tribes have not borrowed their ideas and customs from outside nations, either civilized or semi-civilized. Most of the village peoples of the first class, as described above, have been in contact with European or American explorers or business firms for a long time, and naturally have borrowed many customs and practices from them. These peoples, therefore, are not primitives, in the proper sense of the term, although their culture in some instances is very rudimentary. Hence the marriage practices of none but the nomadic peoples of the second class will be discussed, and of these only the tribes concerning whom the information is most trustworthy. This group numbers about eighteen or twenty. First, their names and their habitats, and secondly, a short statement of their family practices, will be given.

1. *The Names and Habitats of Low-Culture Peoples.*—The most primitive peoples of whom there are reliable data at the present time, may be classified according to the continents which they inhabit. (*a*) The first division includes the savage peoples of South America; (*b*) the second, those of Indo-Oceanica; (*c*) the third, those of Africa.

(*a*) South America.—The first division of truly primitive races are the peoples of South America. They consist of two groups or tribes, separated from one another by more than three thousand miles. The first inhabit the island area and the mainland at the extreme southern tip of South America. The second inhabit the interior of Brazil. The first include the three little sea-roving tribes of Fuejans, known as the Yahgans, Alacalufs, and Onas. The second include the jungle tribes, known as the Botocudos and the Chavantes.

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[33] Cooper, *American Ecclesiastical Review*, Vol. LI, 1914, pp. 265–267; Carr-Saunders, *The Population Problem*, p. 128.

(*b*) Indo-Oceanica.—The second division includes some of the tribes inhabiting the vast area of Indo-Oceanica. If one turns to a map of the Far East, one will find that the Indo-Oceanican area embraces in part the island of Ceylon, the Adaman Islands, the Malay Peninsula, the Philippines, and the islands of Sumatra, Borneo, Celebes, New Guinea, and Tasmania. The primitive peoples in this area are known to ethnologists as: The Veddas, who are found on the island of Ceylon; the Andamanese, on the Andaman Islands; the Semangs, Sakais, and Jakuns, on the Malay Peninsula; the Aetas, on the Philippine Islands; the Kubus, on the island of Sumatra; the Punans, on the island of Borneo; the Toalas, on the island of Celebes; the Mafalus and other pygmoids, on the island of New Guinea; and the Tasmanians, on the island of Tasmania. Some of these peoples are Negroid, others Mongoloid, others Caucasoid; and still others are perhaps mixed races.

(*c*) Africa.—The third division of the lowest culture peoples, includes two tribes found in Africa. The first includes the Negritos or Pygmies of Central Africa; the second, the Bushmen of Southern Africa. Both of these peoples are of negroid blood.[34]

2. *Marriage Relations of Primitive Peoples.*—What form of marriage relation is observed among these very primitive peoples? This question can be answered satisfactorily by considering these peoples one by one, in the light of the most reliable information regarding each of them. It is to be expected that but little can be said of these peoples, for it must be remembered that they inhabit wild and inaccessible districts, which students and missionaries can visit only with great risk and hardship. Moreover, the reports of explorers, meagre as they are at best, do not always agree on important details, and sometimes are all but contradictory.

(*a*) South America.—The primitive peoples of South America are the three tribes inhabiting the Cape Horn district, and the two tribes in the heart of Brazil. The former group,—the Yahgans, the Alacalufs, and the Onas,—were until recently in the stone age of culture. They live by hunting and fishing. The noteworthy fact about these peoples is their strong family organization. Each family seems to be completely independent of all the others, and they coöperate on only rare occasions, for example, when there is need of common defense. Both the Yahgans and the Alacalufs are dominantly monogamous.[35] The Onas rarely have more than one wife, although the Salesian Fathers report some instances of polygyny. Dr. Gusinde says that among all the peoples in this area, the wife enjoys a position of equality with her husband, and that weighty reasons are required for a man to take a second wife.[36]

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[34] For exact location of the above peoples, see Haddon, *The Races of Man.*

The two tribes in Brazil, the Botocudos and the Chavantes, also observe a fairly high degree of monogamy. Although wife exchange is not uncommon among the Botocudos, they are much addicted to jealousy, have a deep horror of adultery, and punish it with great severity.[37] As to the Chavantes, although polygyny is found among them, monogamy is the rule.[38]

(b) Indo-Oceanica.—The primitive peoples of the Indo-Oceanican area of whom there is fairly definite information at present, are about eleven in number. In general, it may be said that the family life of all the peoples in this area, is dominantly monogamous, and, in some cases, strictly monogamous. A brief description of the family relations of each of the eleven tribes will now be given, in the order in which they were enumerated above.

The Veddas of Ceylon are strictly monogamous. They are known especially for their rigid code of morality.[39] Westermarck says: "All our authorities agree that the Veddas of Ceylon never have more than one wife; and even adultery seems to be unknown among them." [40]

The Andaman Islanders are likewise strictly monogamous. Although there is some freedom between the sexes before marriage, strict fidelity is observed after marriage, and polygyny is practically unknown.[41]

The Semangs, Sakais, and Jakuns, on the Malay Peninsula, are habitually monogamous. A recent study of these peoples would seem to show that polygyny exists to some extent among them. In some instances the husband divorces his wife and marries another, taking his children with him. The explorer making this report, says: "I hasten to add that the majority of the men remain faithful to their first love, throughout life." [42]

The Aetas, on the Philippine Islands, belong to a group of negrito tribes, who, as a rule, are strictly monogamous. Cases are found, however, in which the well-to-do have more than one wife.[43]

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[35] Cooper, *Bureau of American Ethnology*, Bulletin No. 65, pp. 166–169.

[36] *Semaine Internationale d'Ethnologie Réligieuse*, 1925, p. 168.

[37] Westermarck, *op. cit.*, Vol. I, p. 304; Hobhouse, *Social Development*, p. 20; Keane, *Man Past and Present*, p. 418.

[38] Wallace, *Travels on the Amazon*, pp. 509–515; Ehrenreich, *Beiträge zur Völkerkunde Brasiliens*, quoted in Westermarck, *op. cit.* Vol. III, p. 2.

[39] Westermarck, *op. cit.*, Vol. I, p. 145.

[40] *Op. cit.*, Vol. III, p. 12.

[41] *Ibid.*, p. 12.

[42] Schebesta, *Études*, October 20, 1924, p. 211; also *Orang-Utan*, p. 238, *et passim.*

The Kubus, on the island of Sumatra, are reported as observing monogamy as a rule, although some traces of polygyny are found among them.[44]

The Punans, on the island of Borneo, are dominantly monogamous. Mr. Hose is acquainted with no case of polygyny among them, although there are instances where a Punan woman has become the second wife of a man of some other tribe.[45]

The Toalas, on the Island of Celebes, "live in monogamy," according to Westermarck, who quotes Sarasin for this statement.[46]

The Mafalus of New Guinea, according to Williamson, are well advanced in polygyny.[47] This, however, is not true of the other tribes of New Guinea. Westermarck says: "From various writers on New Guinea savages we learn that polygyny is not much practised, though there are also a few statements to the contrary." [48]

The Tasmanians, according to one writer are polygynous; according to others, they are prevalently monogamous.[49] Such conflicting reports regarding primitive peoples are explained usually by the fact that one writer may visit a small section of a tribe which others may not have visited. In the present state of the information, therefore, it would be as correct to say that the Tasmanians are polygynous as to say that they are dominantly monogamous.

(*c*) Africa.—The two groups of primitive peoples in Africa are the Pygmies in Central Africa and the Bushmen in South Africa. The Pygmies are the small black peoples of the interior, and are commonly known as negrillos. The Bushmen are the yellow tribes, found now especially in the Kalahari desert. The negrillos are generally monogamous, except as LeRoy reports, in certain areas where polygynous practices have been introduced through the example of neighboring tribes. The same, he says, is true of some of the Bantu peoples.[50] Schmidt writes that the individual family is firmly established among the negrillos, that the young people exercise considerable freedom in choosing their life mates, and that the women enjoy equality of rights with the men.[51] The Bushmen in Southern Africa are dominantly monogamous, although more polygyny is found among them than among the negrillos. Some of the Bushmen tribes, however, are reported to be strict monogamists.[52] If a general comparison is made between the African tribes and those of Indo-Oceanica and South America, it may be said that a somewhat greater tendency toward polygyny exists among the African primitives than among those of Indo-Oceanica and South America.

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[43] *Semaine Internationale d'Ethnologie Réligieuse*, 1925, p. 29.

[44] Westermarck, *op. cit.*, Vol. III, p. 13.

[45] *Ibid.*, p. 14.

[46] *Ibid.*

[47] Quoted in Westermarck, *op. cit.* Vol. III, p. 17.

[48] *Op. cit.*, Vol. III, p. 17.

[49] The first writer is Lloyd; the others are Calder, Nixon, and Dove; quoted in Westermarck, *op. cit.*, Vol. III, p. 19.

[50] *La Réligion des Primitifs*, p. 101.

This concludes the evidence on the family life of primitive peoples. It has been presented in some detail in order to show that the marriage relationships of existing primitive peoples offer no evidence for the conclusion that the monogamous family of today has evolved through an ''evolutionary series'' from an original state of promiscuity. Dominant monogamy, and in some areas, strict monogamy, prevails among the lowest uncivilized peoples at the present time. What marriage practices prevailed among these peoples in the past, there is no way of knowing, since none of them has as yet invented a system of writing, and consequently none of them possesses any written records of their ancestors. All that is known is, that, at present, many of these tribes are dominantly monogamous, and some of them are strictly monogamous. This fact not only lends no support to the theory of an evolutionary series of marriage, but is directly opposed to it. W. H. R. Rivers summarizes the matter as follows:

''In recent years the scheme (Morgan's theory) has encountered much opposition, especially from Starcke, Westermarck, Crawley, Andrew Lang, and N. W. Thomas, the last calling Morgan's whole structure a house of cards, and it may perhaps be said that the prevailing tendency in anthropology is against any scheme which would derive human society from a state of promiscuity, whether complete or of that modified form to which the term group-marriage is usually applied.''[53]

VI. SUMMARY AND CONCLUSIONS

As stated at the beginning of this inquiry, there are but four sources of information on the history of marriage, namely, the records of prehistoric times, the records of archaic times, the records of written history, and the records of existing uncivilized peoples. These sources have been examined individually, and none of them has been found to yield any evidence for the theory that the family has passed through an "evolutionary series." The theory, therefore, lacks scientific foundation, and must be rejected as pure fiction. On the other hand, all the sources show very clearly that monogamy, strict or dominant, has existed from the earliest historical times. The evidence is likewise clear and unmistakable that monogamy, strict or dominant, prevails everywhere today, even among the lowest savage tribes.

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[51] *Semaine Internationale d'Ethnologie Réligieuse*, 1925, p. 140; also in Esser and Mausbach, eds., *Religion, Christentum, Kirche*, Vol. I, p. 579.

[52] Westermarck, *op. cit.* Vol. III, p. 23.

[53] *Social Organization*, p. 175.

Conclusions.—Certain general conclusions may now be drawn regarding the origin and history of marriage.

A.—There is no scientific evidence to support the hypothesis that a state of unregulated promiscuity was the original form of marital relations. No one is able to say what form of marriage existed prior to the Iron Age, as there are no data whatsoever on family life before this period.

B.—Most of the Archaic peoples were at least dominantly monogamous. When polygyny was practised, it was confined, for the most part, to the well-to-do and the royal families. Moreover, even when polygyny was permitted, the "principal" wife and her children alone enjoyed legal benefits. The accordance of legal status to her and her children exclusively, clearly implied the acceptance of monogamy as the proper family relationship.

C.—Law and custom, both Greek and Roman, recognized no marriage for citizens except the monogamous marriage. This does not mean that strict monogamy was universally adhered to. As slaves were unable to contract legal marriages, their unions were frequently irregular. Moreover, their presence was the occasion of considerable license among free citizens, so that perhaps less than half the population in Athens and Rome lived in strict monogamy. Christianity brought with it the ideal of the absolutely indissoluble marriage for both slave and free. This ideal was gradually accepted by the Western nations as the proper relationship between husband and wife.

D.—Among the very lowest contemporary uncivilized peoples, dominant monogamy prevails, and, among some of them, strict monogamy is rigidly enforced.

E.—The theory that the present monogamous family is an evolutionary product, developed from an aboriginal condition of unrestrained sex license, is entirely without scientific foundation. On the contrary, all the existing evidence points to the fact that monogamy, strict or dominant, has existed from the beginning of human history.

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QUESTIONS FOR REVIEW

1. Define the family.
2. What is meant by the statement that the family is the social cell? Explain.
3. Why cannot each individual be considered as the social cell?
4. Define Monogamy, Polygyny, Polyandry; Exogamy, Endogamy.
5. Explain why the United States cannot be said to be strictly monogamous.
6. What is the evolutionary theory of the family as expounded by Morgan? By Spencer?

Oedipus Complex
Mother & son relation.

7. To what four sources must one go for the history of marriage? Explain the value of each source.

8. What is known definitely regarding the family in prehistoric times?

9. Where are the first authentic records on marriage and the family found?

10. What was the contribution of the Hebrews to marriage and the family?

11. What change did Christianity make in marriage and the family?

12. What basic doctrine of Christianity gave pagan women the hope of true emancipation?

13. What conclusions are warranted by the fact that in archaic and early historic times, a sharp distinction was made in polygynous households between the "principal" and the other wives?

14. What is the testimony of recorded history regarding the form of the family?

15. What particular sources are available regarding the marriage practices of living uncivilized peoples? Name some of the tribes which have been carefully studied.

16. What are the predominant forms of marriage relations among primitive peoples today?

17. May one infer that the customs of uncivilized tribes today are akin to the customs of prehistoric peoples?

18. Give a natural explanation for the predominance of monogamy among living uncivilized peoples.

19. Is chastity a purely personal virtue, or is it social also?

20. What common convictions of mankind can be proposed to explain the observance of monogamy, strict or dominant, among all peoples?

21. Name some evils resulting from polygyny.

22. Why have laws, or social codes, protecting the marriage bond, always been necessary?

23. What conclusions as to the evolutionary theory of marriage may be drawn from the evidence of uncivilized tribes today?

24. What reasonable conclusions concerning marriage and family relationships are to be drawn from the available evidence?

CHAPTER VII

The Functions of the Family

I. THE FAMILY AND ITS MEMBERS

A. The Child—B. The Mother—C. The Father

II. THE FAMILY AND SOCIETY

A. The Family an Economic Unit—B. The Family a Social School

III. THE INDISSOLUBLE MARRIAGE

A. Divorce and Its Causes—B. The Indissoluble Marriage and Social Order—C. The Power of Precedent—D. The Argument Based on "Innocent" Parties—E. Protective Measures against Divorce

IV. THE FAMILY AND THE STATE

A. Two Extreme Views of the Family
B. Principles Controlling Relations of the Family to the State

Every social institution performs definite functions in society. It does certain things which would not be done if the institution did not exist. For example, the institution of private ownership promotes peace, order and progress in society. Where it is lacking, that is, under a system of collectivism these benefits cannot be secured. The same applies to the other great social institutions, such as, the state and the family. Both the state and the family are necessary to protect the personal rights of individuals, and to promote collective well-being. Each, of course, has its own field of activity. Though one reinforces the other, the jurisdiction of each is well defined, and were either wanting, individuals would suffer, and organized society would be impossible.

The present chapter is concerned with the institution of the family. It will discuss the questions: What is the family for? What form of marriage is best suited to the maintenance of family life? What rights has the family as against the state, and what rights has the state as against the family?

In the plan of Divine Providence, monogamy was instituted to protect the personality of the constituent parts of the family, and to maintain social order.[1] The functions of the family, therefore, are twofold: first, to safeguard the personality of the child, the wife, and the husband; and, secondly, to promote peace and social well-being. Each of these functions will be examined in detail.

I. THE FAMILY AND ITS MEMBERS

A. The Child.—The ultimate purpose of marriage is the perpetuation of the race. This purpose is achieved through the rearing of children, who in turn transmit life to their children, and thus on indefinitely. As a result, the perpetuity of the species is assured. This, however, is the larger social aspect of marriage. The present section has to do with the effects of the institution of marriage on the children themselves, rather than its effects on society.

It is axiomatic that every child has the moral claim to a normal home, and the care and guidance of its father and mother. The child possesses this claim against its parents from the first moment of its existence. Correlative with this claim is the parents' obligation to support, protect and educate the child. It is not out of a mere sense of duty, however, that parents commonly discharge this obligation. They do so gladly and readily. Divine Providence has endowed them with certain parental instincts and inclinations to which they respond with pleasure and satisfaction, and as a result their burdens and sacrifices are lightened and sweetened.

It may be noted here that the parental instinct to love children and care for them, is far stronger than the corresponding tendency of children to love and esteem their parents. This is shown by the fact that for one case of cruel treatment of children by their parents, there are hundreds of cases of cruel treatment of parents by their children. This comparison reveals the deeper designs of nature with respect to the race as a whole. Strictly speaking, the love of children for parents is not necessary for the perpetuation of the race. It is quite different with regard to the love of parents for children. The perpetuation of the race depends in large measure on the love and care of parents bestowed on children, especially during the years of early childhood. Thus Divine Wisdom has wonderfully provided for the preservation of the species by placing in parents certain tendencies and inclinations, the indulgence of which affords them pleasure and satisfaction.[2]

Fortunately, the vast majority of children are born into homes where they are cared and provided for in a proper way. They are reared and educated by the common sacrifices of father and mother, and grow up into useful manhood and womanhood, profiting by the love and affection of their parents. This happy result is achieved through the institution of the monogamous marriage, which unites husband and wife in permanent and lifelong wedlock. Children would suffer immeasurably were society to sanction any other system of marriage. The monogamous marriage is the normal, accepted family relationship in society; and hence its beneficial effects on child life are ordinarily taken for granted, and are not esteemed at their true value.

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[1] Leo XIII, *Arcanum Divinae*, The Great Encyclical Letters of Leo XIII, p. 72.
[2] Addison, *The Spectator*, No. 189, October 6, 1711.

The benefits accruing to children from the indissoluble marriage appear very clearly from the sad lot of children who are deprived of normal home life. The condition of the child is especially pathetic when it is denied a normal home through the voluntary action of its parents, that is, through divorce or abandonment. The child of divorced parents is placed under serious handicaps as compared with the child in the normal home. Very frequently, the child of divorced parents is unable to overcome the handicaps imposed by its parents, and it breaks down under them either in its school-work, or later in its employment or moral conduct.

An overwhelming mass of evidence shows that the child suffers a grave wrong as a result of an inadequate home, whatever the immediate cause responsible for the inadequacy. In 1923, approximately 200,000 young persons under eighteen years of age passed through the Juvenile courts of the United States.[3] It is estimated that fully 40 per cent of these young persons came from broken homes, and that the remaining 60 per cent came from unsatisfactory homes. In 1921 the Children's Bureau analyzed 10,845 cases, which represented the total number of children appearing in seven juvenile courts in Chicago, Cleveland, Denver, Kansas City, Mo., Los Angeles, Minneapolis, and Philadelphia. It found that 40 per cent came from homes in which death, desertion, divorce, or separation had disrupted the family. Of the remaining 60 per cent, the Bureau says: "Analysis of the home conditions in the 60 per cent in which both parents were living in the home would undoubtedly show, as analysis on a smaller scale has done, that in a large proportion of these cases, the waywardness of the children was directly traceable to absence of the mother from the home because of outside employment or to abnormal conditions in the home."[4]

A study of probation made by the Catholic Charities Probation Bureau,

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[3] Van Waters, *Youth in Conflict*, p. 176.

[4] U. S. Department of Labor, Children's Bureau, Publication No. 141, pp. 225, 236.

Court of General Sessions, New York City, in 1925–1926, warranted substantially the same conclusion. Of the 2,976 offenders studied, 1,406, or nearly one-half, were reared in broken homes. The Report states: "Because such a large proportion of offenders were products of broken homes it is reasonable to conclude that this condition constituted an important contributing factor in their delinquent careers." [5]

An analysis of 100 records, chosen at random from 1,393 records in the files of the Juvenile Court of Milwaukee, covering the second half of the year 1928, also shows how the inadequate or broken home directly contributes to juvenile crime and delinquency. The one hundred cases are as follows:

46 cases — parents living together
26 " — parents separated or divorced
11 " — one parent dead
2 " — unmarried motherhood (parents of unmarried mother living)
15 " — minor offenses (information not complete, as cases were disposed of by the probation officer, outside of court)
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100

An examination of these 100 cases showed that 37 children lacked the care and guidance of one or both parents. It showed also that of the 46 homes which were legally unbroken, only 18 could be classed as good homes. Of the remaining 28 homes, such cases as the following were typical:

1. Frank, aged 12. Ran away from home for dependent children. Committed to ——— Home. Both parents drink to excess. Father serving sentence in House of Correction.

2. Edward, aged 16. Charged with stealing an automobile. Mother and son against father. They charge father with infidelity and cruelty.

3. Sadie, aged 13. Classed as incorrigible. Sadie and father against mother. Father says that mother is immoral, and that she neglects housework.

4. Harriet, aged 15. Sex immorality. No parental control. Both parents drink to excess.

Other investigations of juvenile delinquency fully bear out the general conclusion of the above studies.[6] As a rule, when the family fails the child fails also.

These data do not warrant the conclusion that a child who is deprived of a father's or a mother's care, or both, necessarily becomes a delinquent. In any city of size, it can be shown that many children have grown up to self-respecting manhood and womanhood, in spite of unfortunate and even degrading home conditions during their youth. Nevertheless, one is warranted in saying that a child reared in a home in which there is no father or mother, is seriously handicapped, and the chances of his becoming wayward and delinquent are far greater than if he had the advantage of normal home life. When abnormal home conditions are due to such causes as the voluntary separation of the parents, or to the desertion of either parent, the moral claim of the child to filial affection and care is ignored, and it is grossly wronged. This sacred claim is usually disregarded by those who advocate divorce and remarriage. Foerster emphasizes the injustice that divorce works on the child: "Nothing could be more extraordinary than the facility with which those who aim at loosening the ties of marriage ignore the child's most fundamental right—*the right to possess a mother and a father.*"[7]

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[5] Cooley, *New Goals in Probation*, pp. 35–36.

[6] See for example Breckinridge and Abbott, *The Delinquent Child and the Home*, p. 91.

This discussion may be summarized as follows: all the factual evidence shows that when a child is deprived of a normal home, it is gravely wronged, and, in a large majority of instances, becomes a failure. On the other hand, when a child enjoys a good home and the guidance and affection of its parents, it goes into life well-equipped socially, and in all likelihood will become a good citizen. Thus it is evident that normal family life is necessary for the protection and well-being of the child.

B. The Mother.—After the child, the mother stands in greatest need of protection. This statement requires no extended proof. In modern industrial society, the physical limitations of woman place her at a disadvantage as compared with man, for the present industrial system is based on competition and struggle. Hence for this reason, if for no other, there is need of the monogamous family, with all the safeguards that Christian civilization has thrown around it in the shape of chivalry and respect for motherhood. It is no different in savage society. Here, too, the purely physical advantage is with the man, for, in primitive society the final test of superiority is bodily strength and endurance. But Divine Providence has compensated woman for her inferior physical strength, and prevented her from being made a mere instrument of man's will or pleasure, by ordaining the monogamous family.

It is a mistake to say that the position of woman always improves with the advance of material civilization.[8] On the contrary, it frequently happens that women are reduced to greater degradation, as a people advances in material culture. The only valid generalization in regard to the status of woman is that she enjoys equal regard and consideration with man where monogamy prevails, and her condition is debased in proportion as polygyny increases.[9] Professor Lowie says that the popular opinion that woman's status is a sure index of cultural advancement is "utterly at variance with the ethnographic data." He continues: "In the very simplest hunting communities, among the Andaman Islanders and the Vedda, woman is to all intents and purposes man's peer. This does not hold for most of the higher primitive levels, say, for the average Bantu village, where woman, though hardly a mere slave, does not at all events rank as man's equal. Finally, on the still higher plane of Central Asia and China woman is definitely conceived as an inferior being." [10] It is to be noted especially, that the family life of the Andaman Islanders and Veddas is strictly monogamous, and their women are accorded equal rights and dignity with their husbands, although these peoples live at the lowest levels of culture.

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[7] *Marriage and the Sex Problem*, trans. by Booth, p. 47.

[8] Schmidt in Esser and Mausbach, editors, *Religon, Christentum, Kirche*, Vol. I, p. 554.

Reports on some of the low culture peoples in Central America bear out the general statement that the social status of woman depends, not on the degree of material progress of her tribe, but on the degree to which it observes monogamy. The Caribs and the Kekchi are neighboring tribes in British Honduras and Guatemala; the former live near the sea coast; the latter in the forests and mountain country. According to Father Louis Fusz, S. J., who labored as a missionary among these peoples for ten years, the Caribs are fairly well advanced in culture; and polygyny, more or less public, is quite common among them. The Kekchi, on the contrary, have an extremely simple culture, and are strictly monogamous. The lot of the Kekchi woman is very much better than that of the Carib woman. Among the Kekchi there is an equal division of labor, and the wife is recognized as the equal of her husband in all respects. The Carib women, on the other hand, are the drudges of the community. For example, the Carib man considers it a disgrace to carry a *katauri*. This is a contrivance used for transporting provisions and other wares. It consists of a leather cap on which a beam is fastened, the whole weight being balanced on the head. A basket is suspended from each end of the beam. All the heavy burdens are carried by the Carib women in *katauris*, and a man would be ridiculed if he were seen with one of these devices on his head. In fact, the men do not perform any work that is not entirely beyond the strength of the women. The conditions existing in this district clearly illustrate the fact that an advance in primitive culture does not imply an advance in the status of woman, especially, when cultural advance is accompanied by increased polygyny.[11]

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[9] Schmidt, *op. cit.*, Vol. I, p. 579.

[10] *Primitive Society*, p. 201.

Professor Westermarck reports practically the same conditions among all primitive tribes. After enumerating several peoples who practise monogamy and observe social equality between men and women, he writes: "As for other uncivilized peoples who are strictly or almost exclusively monogamous, I can say at least that I am not aware of a single case in which any such people is reported to treat its women badly."[12] Studies made among primitive peoples, therefore, show conclusively that the true dignity of woman is safeguarded by monogamy. The same conclusion holds for peoples that have advanced to the highest levels of civilization. When divorce becomes widespread, the women of the community become either the drudges or the playthings of men. On the contrary, in such countries as Spain and Ireland, where the marriage bond is held in the highest esteem, the wife enjoys true honor, and is regarded as the companion of her husband, and the mistress of her home. Thus the evidence from primitive peoples as well as that of civilized society shows that monogamy is necessary for the protection of the wife and mother.

C. The Father.—Finally, the monogamous family protects the dignity of the husband. The benefits accruing to the husband, however, are not so immediately evident as they are in the case of the child or the mother. While the evils which wives and children suffer under a régime of polygyny are readily observable, those which the husband suffers are not immediately apparent. These latter, nevertheless, are equally real and profound. Briefly polygyny degrades the dignity of the husband, because it debases the entire community. Since the husband is an integral part of the community he shares in its physical and moral deterioration.

The evil effects of polygyny on the community are evident from the evils that follow from the non-observance of monogamy. Dr. John M. Cooper places the effects of extra-marital indulgence in two general classes, contingent and constant. The contingent effects are to a certain extent avoidable, although they may and usually do occur. They include venereal disease, prostitution, illegitimacy, and lesions of character. The constant effects are those which necessarily and always result. They are the break down of self-control, altruism, and a sense of responsibility; and secondly, the neglect of the welfare of children, leading ultimately to the extermination of the race.[13]

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[11] Interview, December 24, 1929.

[12] *History of Human Marriage*, 5th ed., Vol. III, p. 101.

Moreover, it is to be noted that a people cannot outrage the personal rights and dignity of its women without at the same time degrading and brutalizing its men. The status of man rises and falls with the status of woman. This is illustrated in the period of Roman history marking the decline of the Empire. The introduction of polygyny and its quite general practice led to softness of life, intrigues, luxury, and unnatural vice, and finally the nation ceased to exist.[14] Thus the non-observance of monogamy debases the entire community, and as the father is an integral part of the community, he shares in its degradation. Monogamy, therefore, is necessary for the protection of his human dignity.

II. THE FAMILY AND SOCIETY

A community is strong and prosperous only when its family life is normal and healthy. "As the family so the nation." Both primitive and advanced cultures illustrate the truth of this maxim. Bishop Le Roy says of the primitive tribes of Africa: "If the family life of a tribe is well established the tribe prospers; if family ties are relaxed, the tribe decays; and if, as in the case of certain Europeans, family life becomes disorganized, the tribe disappears."[15] The direct dependence of society on the family holds true equally for civilized nations. This will appear from a consideration of the two principal ways in which the family is indispensable to society.

Society looks to the family to perform two important functions: (A) First, it expects the family to be an economic unit; (B) secondly, it expects it to be a social school.

A. The Family An Economic Unit.—The family is expected to be an economic unit, that is, to provide for the physical needs of those within the family group, especially the young and the sick. Needless to say, the family performs this function, but, what is particularly relevant here, the family does so in an extremely efficient way. This is true especially in the case of the children.[16] The amount necessary to support a child at public expense is at least three or four times the amount required in an average home. It is estimated that in Milwaukee, a small child can be maintained in its own home for about ten dollars per month, whereas the cost of its maintenance in a properly conducted county institution is approximately ten dollars per week. About the same ratio is found to prevail in other large cities which provide adequate care for dependent children.

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[13] *Social Hygiene*, Vol. VI, No. 4.

[14] Mommsen, *The History of Rome*, trans. by Dickson, Book III, Chap. XIII; Book V, Chap. XI.

[15] *La Réligion des Primitifs*, p. 94.

[16] U. S. Department of Labor, Children's Bureau, Publication No. 162, rev. ed., p. 18.

The superior economic efficiency of the family unit can be readily understood when it is remembered that family life calls into play two important economic forces: the division of labor, and self-interest. First, a natural division of labor is utilized in the home, inasmuch as its daily economic burdens are divided according to the respective capacities of the parents. Secondly, the powerful instinct of self-interest operates in each of the parents, inasmuch as each toils with the feeling that the common welfare of the family is identified with his or her own. It may be helpful to see how these forces operate, first, in the case of the father, and secondly, in the case of the mother.

The economic contribution of the father consists in providing income for the sustenance of his wife and children. His peculiar qualities of strength and mental alertness adapt him to this task, for the present system of production, despite its labor-saving devices, requires physical brawn and brain. Securing income with which to purchase the necessities of life for his family, is, therefore, the normal economic task of the father. It is to be noted that the father will exert himself to his full productive capacity; and, in some cases, will exhaust himself, because he realizes that he is working for his own dependents. An economist observes in this connection: "A man will hold himself to the daily grind more persistently when he feels some one is dependent upon him than when he is standing alone." [17] The truth of this observation becomes clear when one compares the steady employment-records of married men with those of their single co-workers.

The same forces come into play in the case of the mother of the family. The management of the home and the care of the children are peculiarly suited to her strength and talents. Incidentally, the economic value of the domestic work performed by the wife is frequently underestimated. The single task of cooking, together with the allied tasks of marketing and dishwashing, require from four to seven hours per day in most homes.[18] The entire round of household duties may require as high as ten or twelve hours of labor each day. Mothers, of course, are not given to counting the number of hours they spend at their household duties. These figures are introduced here merely to show that the mother spends herself in her home, and frequently for excessively long hours, primarily because it is *her* home. She identifies herself with it, and she does so because of her unquestioning confidence that she has entered into a life partnership with her husband.

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[17] Ely, *Outlines of Economics*, 4th ed., p. 94.

[18] Hughes, *Mothers in Industry*, Introd., p. xvi.

The monogamous family, therefore, divides economic burdens according to the respective abilities and talents of the father and mother; and, in addition, it provides each parent with the natural incentive to exert himself to his utmost capacity. In this way society obtains a sufficient volume of goods and services. This result could not be attained under a non-monogamous relationship, because, as was seen, monogamy alone can utilize the two powerful economic forces, namely, division of labor and personal self-interest. Hence, viewed merely in its economic aspects, the monogamous family performs an extremely important function in society.

B. The Family a Social School.—In the second place, the monogamous family is a social school, for it teaches its members the qualities that are necessary for the preservation of social order. This training is unique because it teaches by actual practice. The family is a miniature state; and the habits and attitudes necessary for the maintenance of the political state, are necessary in a more intense degree in the intimacy of the family circle. For example, no school can instruct a youth in the elementary duties of justice, charity, and equity, which will be required of him as an adult, as does the necessity which compels him as a child to practise these virtues toward brothers, sisters, and parents.

In the plan of Divine Providence, the family is the instrument which impresses the law of duty on the mind and heart of the young. As was seen in Chapter IV, society is a juridical institution; that is, it is based on justice. The minimum requirement for order in society is that every one "be given what is his due." But society requires of its members far more than this bare minimum. It requires public spirit, good will, patriotism, generosity, and respect for government. Family life inculcates these virtues, in addition to requiring that every one be given "what is his due." In fact, family life is impossible unless growing children constantly practise generosity, self-sacrifice, mutual forbearance, and respect for parental authority. These are the mainsprings of the social virtues. Carried over into public life, generosity becomes civic service; self-sacrifice manifests itself as patriotism; mutual forbearance appears as charity and good will; while respect for parental authority develops into respect for the established authority of the state. Thus it is apparent that the family is a training school for the social virtues.

Normal family life, or the absence of it, can be observed at close range in a school-room of young children. In the average school-room some children are well mannered, considerate, and polite; others are uncouth, overbearing, and vulgar. The teacher can read the home background of each child in the child itself. She knows that the orderly and considerate child comes from a home where family life is normal, and that the vulgar and boorish child is the product of a home where family life is inadequate, if not degrading. Experience shows that only in extraordinary cases the school can supply the character training of which the child has been unjustly deprived by improper home conditions.[19] Too frequently the delinquency and anti-social conduct of later years reveals the injustice of early life. The family, therefore, is the school of the social virtues, which are taught and can be learned in none other.

III. THE INDISSOLUBLE MARRIAGE

A. Divorce and Its Causes.—In spite of the manifest benefits of the indissoluble marriage both to individuals and to society at large, it is an ominous fact that family life is being undermined. In the United States the divorce rate has steadily increased since 1887, reaching a ratio of one divorce for every 6.2 marriages in 1929. The number of divorces increased from 5.5 per hundred marriages performed in 1887, to 16 per hundred in 1927. Moreover, the number of divorces during this period increased about three times as rapidly as did the population.[20] It has been estimated that if the divorce rate continues to advance proportionally, by 1950, one-fourth, and by 1990, one-half, of all the marriages in the United States will terminate in divorce.

The causes of the increasing divorce rate are varied and complex. The more prominent causes are a decay in religious belief, and a consequent weakening of personal responsibility; the growth of a false individualism, which regards the individual, and not the family, as the fundamental social unit; and the emigration of women from their homes to gainful occupations in factories. These causes have been accompanied by, and, to a certain extent, produced by the revolutionary changes in industry and commerce since the close of the Civil War. If it be true, as some writers assert, that the gradual disintegration of the family is a necessary by-product of industrial expansion, then society must lose no time in bringing industry under control, for without normal family life, society itself must cease to exist. Beyond question, society must consider industry as a servant, and not as a master. To take any other position is equivalent to placing the means of getting a living above life itself.

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[19] Bosanquet, *The Family*, pp. 303 *et seq.*

[20] U. S. Department of Commerce, *Marriage and Divorce*, 1929, p. 14.

In every industrial change or development, therefore, the claims of the family take precedence over all other considerations. Most sociologists recognize the necessity of the monogamous family in society, though they are far from admitting that it must be absolutely indissoluble.[21] Thus some writers claim that divorce should be permitted in certain cases, but that it should be regulated strictly by law.[22] More specifically, they advocate a system of uniform divorce laws throughout the United States, instead of the present chaotic condition of forty-eight different State codes. A Federal law, they say, binding in all the States should prescribe the grounds and procedure for divorce actions, and permit divorce and remarriage for only a very limited number of causes, such as, unfaithfulness and desertion. This plan, it is claimed, is warranted and demanded by sound social policy. It will be useful to analyze this claim at some length.

The important feature of a system of uniform divorce laws is that it provides for divorce and remarriage for some, if only a few, causes. Its provision for uniform governmental regulation is of secondary importance. Hence the following paragraphs will analyze the plan, not in its political aspects, but only insofar as it embodies the policy of permitting divorce and remarriage at all. This policy will be examined with special reference to its effects on public well-being.

B. The Indissoluble Marriage and Social Order.—In any discussion of divorce, it must be remembered that social order rests on justice, and that the requirements of justice are absolute. Justice is universal in its application, and cannot permit any one, under any circumstances, to commit fraud or enrich himself at the expense of others. If the courts of a country permit a single exception to be made to the law of justice, they cause a breach in the foundation of society which is more far-reaching in its effects, than the single act of injustice which they have condoned.

Furthermore, attention should be directed to the elementary truth that a court cannot permit an individual to commit an unjust act toward another, simply because he himself has been a victim of injustice. For example, if A has been defrauded of $1,000 by B, the civil court cannot, for that reason, permit A to perpetrate a like fraud against C or D, or any other person. Such procedure would bring about social chaos. In like manner, if A is the wronged party in a divorce action, the courts cannot permit him on that account to perpetrate wrongs against C and D and other innocent parties in the community. This is frequently the result, however, when a divorce is granted. In the supposition that A has children, he inflicts a grave injury on them by securing a divorce. According to the most recent figures, children are involved in over 36 per cent of all divorce cases.[23] The grave wrong of depriving these children of a normal home life is patent.

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[21] *The Survey Graphic*, January, 1929, pp. 418 *et seq.*

[22] Grant, *Yale Review*, Vol. XIV, No. 2.

In the supposition that A has no dependent children who might be made fatherless or motherless through his divorce and subsequent remarriage, nevertheless, if he does remarry, he commits an injustice against all other members of the community. Due to his action, the rights of the family members of C and D and all other parents are more or less jeopardized, and, in some cases are repudiated. The fact that A is granted a divorce and the legal right to enter a new marriage, tends to unsettle even the most firmly established homes, with the result that many husbands and wives are tempted to renounce their family obligations to one another and to their children. In other words, the force of a single precedent for divorce reacts disastrously on the entire community.

C. The Power of Precedent.—Precedent plays an extremely important part in the affairs of life, especially those involving confidence. An illustration may be taken from the field of business. A banking firm honors its legal signature in every instance even though it is not always ethically bound to do so. To act otherwise would destroy the confidence which the patrons of the bank repose in its integrity. Hence, even when an accredited official of the firm makes a costly error by endorsing a document with the firm's signature, the firm does not repudiate the signature on the ground that an error has been made. It stands by what it has done officially. It knows that any other policy would be fatal to its standing in the business world. Again, an order to buy or sell, given by a member of the New York Stock Exchange, must be executed in every instance. A single violation of a contract would be sufficient to weaken the entire structure of the exchange. In a word, business rests on ~~credit, or wh~~at is the same thing, on faith in the probity of human beings, and the entire institution would disintegrate, were exceptions made for any cause whatsoever.

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[23] U. S. Department of Commerce, *Marriage and Divorce*, 1929, p. 39.

Society, too, rests on credit, or faith, that is, on the trust that husbands repose in wives, and wives in husbands. Allowing a single repudiation of a marriage contract is as disastrous as allowing a single repudiation of a business contract. It is true that the evil effects of permitting a single repudiation of a marriage contract do not appear so immediately in society as they do in the commercial world. Human society is far more complex than business. Moreover, it is a living organism, and consequently has within it recuperative powers, not possessed by a merely artificial grouping, such as the business system.

On the other hand, the evil effects on society caused by condoning a broken marriage contract are far more difficult to check, once they are set in motion, for the reason that they operate over a wider area and over a longer period of time. Tampering with the human forces in society is not like tampering with an intricate mechanism, for example, a comptometer. The comptometer can be repaired by an expert mechanic because it has been built according to the laws of physics, and it will function properly when readjusted to their requirements. But the forces which give cohesiveness and energy to society, and make it a "going concern" are human forces. One of the most potent of these forces, and the one that is least subject to the control of the "social engineer" is the force of example. In the language of the psychologist, this force is the product of the gregarious and imitative instincts.

Instincts, however, are essentially irrational tendencies. They may operate in the direction of good or in the direction of evil, according to the character of the stimulus placed before the subject. In the case of divorce, the stimulus presented to public notice is the freedom of a husband and wife to separate from one another, and marry other persons. With the aid of the stimulus of sex passion, the inevitable result is a tendency to weaken the bonds of even the most permanently established homes. Insofar as the less firmly established, or "borderline," homes are concerned, the result will probably be divorce, and remarriage; and an increasingly widespread repetition of this behavior.

Pope Leo XIII insists on the impossibility of checking the forces of example and passion once they have been set in motion. He writes:

> Further still, if the matter be duly pondered, we shall clearly see these evils to be the more especially dangerous, because, divorce once being tolerated, there will be no restraint powerful enough to keep it within the bonds marked out or presurmised. Great indeed is the force of example, and even greater still the might of passion. With such incitements, it must needs follow that the eagerness for

divorce, daily spreading by devious ways, will seize upon the minds of many like a virulent contagious disease, or like a flood of water bursting through every barrier.[24]

These words, written in 1880, have been verified by events since that time. Judge John J. Lupe of the Court of Domestic Relations, Chicago, was quoted as saying in a recent statement: "I don't think that divorce can be made too difficult. It's getting so young women say, 'Oh, I'll marry him and if I don't like him, I can divorce him. I might try marriage and see what kind of a husband he makes.' Young men say: 'The world is full of girls, but I'll marry Mabelle, and if I don't like her, I can divorce her and take Susie.' If they really believed that marriage is for life, they would both make sincere efforts to make a success of it. They marry now with one eye on the exit—the divorce court. No wonder there are so many failures in the first year of marriage." Another jurist, Superior Judge J. B. Lindsey of Spokane, is quoted as follows: "What brings most of the petitioners to court? They have already decided to marry some one else. This is true in most of the cases. I am in favor of abolishing divorce laws, as there is no such thing as reforming the so-called divorce evil. It is no more sensible to regulate it than to regulate crime."

The conclusion to be drawn from this discussion, therefore, is that the institution of the monogamous family can be preserved only by insisting on the indissoluble marriage in every instance. This means that once a man and a woman have entered into a marriage contract, no cause except death, can justify their separation or the remarriage of either. This conclusion is based on the broad social ground that if society permits a divorce and remarriage for any reason whatsoever, it inflicts a grave injustice on itself, inasmuch as it imperils, and ultimately destroys, the monogamous family.

D. The Argument Based on "Innocent" Parties.—It is sometimes objected, however, that the system of the indissoluble marriage works an injustice on some persons, inasmuch as it permits *no* exception for whatsoever cause. For example, it is said, a high-minded girl finds herself married to a worthless drunkard, suffering, perhaps, from a social disease. Or again, an upright and industrious young man discovers that his wife is a woman "with a past," who refuses to give up her former evil habits. Why penalize these wronged parties, then, and refuse them permission to remarry and set up a home?

Granting for the moment that all such persons are innocent or wronged, the sufficient answer to this question is that the welfare of the race can never be subordinated to that of isolated individuals. This is an accepted axiom of society. For example, a state or a city subordinates the good of a few individuals to that of the entire population, whenever it exercises its right of "eminent domain." If public necessity or good demands the laying out of a new street, the new street is laid out. The loss or inconvenience to a few owners through whose property the street is cut, is not consulted. Private convenience or advantage must yield to public need.

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[24] *Arcanum Divinae,* The Great Encyclical Letters of Leo XIII, p. 75.

In a similar way, the maintenance of the system of private ownership of property forces society to choose between the welfare of all and the advantage of a few. Even though the private advantage of the poor may be secured by permitting them to appropriate the property of the well-to-do, nevertheless, social order requires that the rights of private property be upheld, and that theft be punished. If this were not done, the institution of private property would collapse, and social order could not be maintained. Hence society permits suffering and hardship among the poor, rather than involve itself in general disorder and chaos.

A final example, taken from the administration of justice, illustrates how society refuses to permit the public good to be subordinated to the advantage of a few. An innocent man is arrested and charged with murder, because circumstantial evidence is strongly against him. He may be put to considerable expense before he succeeds in convincing the court of his innocence. Ordinarily, the state does not reimburse him for his loss of time and money, and cannot reimburse him adequately for the damage his reputation has sustained. Nevertheless, since public order cannot be maintained without this process, the man must submit to personal losses and sufferings, because of the common good of society.

It should be added that, as a rule, too much weight is attached to the "innocent" parties argument in pleas for divorce and subsequent remarriage. In very many instances the "innocent" persons are not nearly so "innocent" as they might appear. Very frequently the "innocent" person has rushed into marriage without a proper appreciation of its responsibilities, or, what is equally vital, without a sufficient knowledge of the habits and family connections of his future spouse.[25] Very frequently, too, he either has not taken his parents into his confidence, or else he has completely disregarded their advice. If young people entered into wedlock with the serious idea of establishing a home that would be stable, and if society provided reasonable safeguards for young people in choosing their life-mates, virtually all unsuccessful marriages could be prevented.[26]

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[25] Richmond and Hall, *Marriage and the State*, Chaps. VII and VIII.

E. Protective Measures Against Divorce.—The Catholic practice of the Banns, by which the names of the prospective bride and groom are announced at the principal Mass on the three Sundays immediately preceding their wedding day, is an effective measure in keeping young people from marriages which would undoubtedly prove unsuccessful, and therefore unhappy. This practice has been observed in the Church since the close of the twelfth century. It is based on the general ground that marriage is not a mere private concern, but an affair of public interest affecting the whole community. The immediate practical benefit of the Banns is the protection given the parties themselves. The Banns forestall the marriage of a person already engaged, or actually married to another, and, in general, prevent the hasty or ill-advised marriage, which for one reason or another cannot stand the light of public knowledge, and will in all likelihood prove unsuccessful. Thus the Catholic Church does not content herself merely with insisting on the doctrine that a marriage once entered into cannot be dissolved for any cause whatsoever; in addition, she assists people in every possible way in avoiding unions that, from the start, are doomed to failure. Thus the attitude of the Church toward the divorce evil is definitely preventive in its results. Recognizing the social wisdom of the Banns, many writers favor deferring the issuance of a marriage license until several days have elapsed from the date on which the license was applied for. During the interval the names of the applicants are to be posted in a public place or are to be published in a newspaper. This regulation is compulsory in many jurisdictions.

With the employment of all reasonable precautions to avoid marriages that are bound to prove unsuccessful, and, what is equally imperative, with a public opinion which regards marriage as something sacred and enduring, beyond question the monogamous family would be firmly established in modern society, and the evils of divorce averted or, at least, minimized. Certain it is, the number of persons who are now regarded as "innocent" or "wronged" parties would be reduced to a negligible figure. Finally, the state could, in extreme cases, relieve innocent persons from undue suffering by granting them legal separations without, however, permitting them to remarry. If, after all reasonable precautions have been taken to protect persons entering marriage, occasionally a person is found to have been deceived in marrying a worthless spouse, society cannot permit this person to separate and remarry. As shown above, the interests of a very small number of individuals may not be placed above the interests of the entire community. Thus the objection to the indissoluble marriage based on the wrong inflicted on "innocent" parties, does not justify divorce and remarriage. It follows, therefore, that sound social policy requires the absolutely indissoluble marriage, and that divorce with the freedom to remarry may not be permitted in any instance whatsoever.

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[26] Richmond and Hall, *op. cit.*, p. 113.

IV. THE FAMILY AND THE STATE

The family is a moral person. By this is meant that every family possesses certain rights, independently of every other family and of the state. These rights are inherent in the family, and, as will be seen, must be sacredly respected, if the family is to function properly. It is not to be assumed, however, that the family has absolute and unlimited rights, and that the state has no jurisdiction at all. The question of the extent of the jurisdiction of the state over the family becomes a very practical one, in legislation affecting the relations of parents to one another, and their authority over their children. This question may be examined most conveniently by considering, first, the two extreme views regarding the nature of the family, and secondly, the principles governing the relation of the family to the state.

A. Two Extreme Views of the Family.—The first point of view regarding the nature of the family attaches undue importance to the individual, as such, and ignores his obligations as a member of an independent group—his family. It holds that each member of the family, husband, wife, or child, is to be considered as a separate citizen, and that society is to regard him solely as an individual, regardless of his family relationships. This is called the individualistic theory of the family. It is the position taken by extreme feminists, who clamor for the mother's right to a "career" in business or the professions, without calculating the effect that her outside activities may have on her home life or her husband and children. This view also underlies the demand for divorce laws, as it takes into account the interests of the individual spouse only, without regard to his or her obligations either to the other party or to their common offspring. Ex-President Hadley of Yale University writes: "I do not know what is the solution of the divorce problem. I wish I did. But I do know that the worst thing about divorce at present is that so many people regard marriage as a thing to be made and unmade for purely selfish reasons; and when this conception fully takes root, the days of a nation are numbered."[27] It may be said, therefore, that the exaltation of the individual is disruptive not only of family life, but also of the state itself.

The second point of view is likewise an extreme one. It over-emphasizes the rights of the family as against the state. It would make the family an autonomous group, with supreme and exclusive power within itself, and would deny the state any right to intervene between parents and children, or between parents themselves. According to this theory, a law forbidding children to work at night in factories, and compelling them to attend school up to the ninth or tenth grade is an unwarranted interference between parents and their children. The social philosophy underlying this theory assumes that the family is an absolutely independent and self-contained unit, in no way subject to outside regulation or control.

The tendency to make the family a self-contained social unit within the state, is found in Japan. In that country, the family consists of husband, wife, and children as well as the husband's parents and ancestors. According to Y. Kamii, the system has some good features, as it develops unity and coöperation within the group, and promotes filial piety. Nevertheless, he says, it is productive of grave evils, as it stifles personal initiative, increases the number of divorces, and, in general, deprives woman of her rightful place in the home and in society.[28] As will be seen in the succeeding paragraphs, over-emphasizing the immunity of the family from state control is not only harmful to social order, but also inconsistent with the personal rights of the family members themselves. It will now be in place to examine the principles regarding the relations between the family and the state.

B. Principles Controlling Relations of the Family to the State.—1. *Certain Rights of the Family Independent of the State.—First Principle.*—The family has certain inalienable rights independent of the state. Foremost among these rights are freedom of conscience and freedom of inheritance. These rights proceed from the family itself in the same way that certain rights flow from an individual, for example, his right to live and his right to marry. The rights which the family possesses, have not been created by any civil constitution, but are merely safeguarded by it. The family is the fundamental social unit, and is a true society, possessing real authority. This authority is vested in the father, and is exercised by him for the benefit of the family members; not, as is sometimes asserted, for the gratification of his love of power.[29] In the family, as in every other social unit, the exercise of authority is necessary in order to enable the one who possesses it to perform certain duties for the benefit of the entire group.

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[27] *Standards of Public Morality,* p. 157.

[28] *Journal of Applied Sociology,* September–October, 1922.

When it is recalled that family life existed before any state was established, it is evident that the family must possess certain rights which have not been derived from the state, and are therefore independent of the state. The government of a state may be conceived as a superstructure, set up to assist the family in achieving its purposes. From this viewpoint it is quite accurate to regard a government as possessing only such powers as are delegated to it by families in order to assist them in the performance of their proper functions. Logically, then, the internal management of the family must be kept unhampered by any interference from the outside, so long as family life is functioning in a normal way.

One of the purely internal affairs of family life, in which no outside interference can be tolerated, is freedom of conscience in matters of religion. Inasmuch as a child is the extension of its parents' personality, parents have the natural right to determine its religious education. To act on the assumption that it is within the province of a government to usurp this natural right of parents is to open wide the way to oppression in a field that all peoples recognize as the most private and intimate affair of life.

In the United States the principle of the religious autonomy of the family finds concrete application in the question of private religious schools. There is, in point of fact, a decision of the highest court of the land, upholding the validity of this principle. In 1922, the legislature of Oregon passed a law compelling all children of elementary school age to attend the public schools. After numerous appeals, on June 1, 1925, the United States Supreme Court declared this law unconstitutional, saying in part: "The fundamental theory of liberty upon which all governments in this union repose excludes any power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.''[30]

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[29] See Bosanquet, *The Family*, p. 274, for illustrations showing that, *de facto*, in very many homes the mother's authority is considerable.

It is to be observed, however, that the parents' right to freedom in providing for the religious education of their children, does not relieve them of the obligation of securing for their children, at least, a graded-school education. The state has a right to a citizenry that is intelligent and well informed. Correlatively, in default of parental provision, it has the duty of ensuring to children such educational advantages as may be required to equip them for citizenship. It is fully within the authority of the state, therefore, to set up minimum standards of education, and to compel parents to provide their children with, at least, an elementary schooling.

A second right of the family is the right of parents to bequeath property to their children by will or donation. This is an inalienable right, supported by strong social reasons. If parents were not permitted to bequeath property to their children, the habits of thrift and saving would be discouraged. Many families would spend all their income, and in the event of the death of the parents, the minor children would suffer great hardship. Even if the parents were not taken by death, the minor children, in many instances, still would suffer simply because their parents had failed to make proper financial provision for schooling, medical attention, or emergencies of various kinds. As a result, family ties would be measurably weakened.

On the other hand, the right to make bequests is not absolute. The modern state, recognizing the social dangers of the perpetuation and accumulation of vast fortunes by a small number of families, in some cases related to one another by marriage, rightly imposes a graduated tax on inheritances. Thus, the Federal Government exempts from taxation all estates under $50,000, but imposes a graduated tax on larger inheritances, ranging from one per cent on $50,000 to 20 per cent on $10,000,000 and above. Most of the States follow a similar plan. In spite of these taxes on large estates, the present inheritance tax laws safeguard the basic right of the family to own and bequeath property. Although a certain percentage of the large estates is taken by the Federal and State governments in the interest of public welfare, a definite amount of property, determined by the social status of the family, is left intact for the children. The exemption of this part of the estate from taxation is a recognition of the fact that the parents' rights to their property continues in their children even after the parents' death.

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[30] Pierce vs. Society of Sisters of the Holy Names of Jesus and Mary, 268, U. S. 535.

2. *The State's Rights with Reference to the Family.—Second Principle.*—The state has certain rights with respect to the family. These rights are twofold: First, those affecting the family as a unit, and secondly, those affecting the individual members of the family.

Numerous instances illustrate the right of the state to intervene with reference to the family as a unit. Thus the civil law is within its rights when it insists that certain legal requirements be met before a family may be established. For example, it may require a license and a physical examination before marriage; that a specified "waiting period" intervene between the date of application for a marriage license and the date of its issuance; that a certain number of persons witness the marriage; and that the marriage be recorded in the public archives. In a similar way, the civil authorities may enforce certain health measures affecting the individual members of the family. Thus they may require that a silver nitrate solution be applied to the eyes of all newly-born infants, in order to prevent blindness; quarantine homes in which there is a contagious disease; provide medical examination for all pupils in schools, and free lunches for undernourished children; and prohibit minors below a fixed age from doing street or factory work. These interventions are justified by social welfare, and are necessary because of the ignorance, negligence, or poverty of parents.

Other instances of justified intervention in the family occur in cases of extreme poverty. For example, a family may be destitute because of the protracted illness of the father. In cases of this kind, the public authorities may step in, and virtually take over the management and care of the family. The father may be given hospital or sanatorium care in a public institution. If the mother is a competent manager, she may be granted a mother's pension, or she may be supplied with provisions, fuel, and clothing. If she is incompetent, the children may be placed in a public institution, where, of course, they must be provided with religious training according to their parents' convictions. This procedure illustrates state intervention in family management when abnormal conditions exist in a home.

A second type of intervention occurs when grave violations of rights exist within the household itself. So far as children are concerned this intervention is based on the broad principle that the rights and duties of both the family and the state are determined by the basic needs of the child; further, the duty of supplying the child's wants rests on that institution which is in a better position to supply these wants. For example, the rights of the children may be outraged because of the brutality of their parents, or because of their drunkenness or immorality. In such instances the public authorities are fully justified in suspending the rights of the parents, and removing the children from their homes. Again, the rights of the children may be violated because of the failure of the parents to send them to school. In cases of this kind, the state is justified in sending an attendance officer into the home to insist on compliance with the law. Again, it may happen that the mother of a family is made the victim of injustice. Her husband may possess a violent temper and be given to "wife beating." It is clear that in such cases the public authorities have the right to protect the wife against the husband.

It is not always easy to decide whether a given problem involving family life can be remedied by passing a new law, or whether action by the state is justifiable. The following principle will aid in arriving at a proper solution in such cases.

3. *Conditional and Supplementary Nature of the State's Rights.—Third Principle.*—The right of the state to legislate with respect to the family is conditional and supplementary. This means that the state has no right to legislate with reference to family life, unless it can be shown that in a considerable number of cases the family is not functioning properly. In other words, the legislator must always presume that the average family is able to handle its own problems. He must adhere to this presumption, until it can be shown that in a large number of instances the family is *not* able to handle its problems. Thus the burden of proof against the presumption that family life in the community is normal, rests with the legislator and those who demand new laws restricting family rights and authority.

The present juvenile court procedure illustrates this principle. Prior to 1900, it was found that in cities the number of child delinquents was rapidly increasing, and that the prevailing system of punishing child offenders as if they were adults, tended to make them confirmed criminals. Experts who studied the problem discovered that in the case of the vast majority of juvenile delinquents, improper home conditions lay at the root of the evil. In an effort to solve the problem, a few of the States established the juvenile court system, embodying a scheme of reprimand and probation, and, in general, aiming to do what parents were failing, or were unable, to do. When the system had passed the experimental stage, it was introduced into other jurisdictions. At present, there is but one State without juvenile courts.[31] The juvenile court represents the effort on the part of the civil authorities to do for these children what their homes fail to do for them. This activity of the state cannot be regarded as an invasion of family rights, inasmuch as the average juvenile court offender comes from a home that, as such, is inadequate. It should be added that an efficient juvenile court with its probation system, always aims to reconstruct the home in order to give the child a normal home life.

Intervention by the state in family life is, therefore, justified when the home fails to function properly. It was said above, however, that the rights of the state with reference to the family are conditional and supplementary. Consequently, the state may intervene only up to the point where it does not weaken parental control or responsibility. If it goes beyond this point, it exceeds its powers and defeats its own purposes. It is to be remembered that the state was founded to aid and promote family life. The state is not an end in itself. It is merely an instrument or a means, and one of its primary purposes is the preservation of family life. The welfare of the family is best served by allowing its members the maximum of freedom in working and doing for themselves as a family. It is only when family life fails that the supplementary work of the state should be undertaken. If the state attempts to do for members of families things which they should do for themselves, it stifles personality, and reduces its citizens to a condition of dependence and indifference. The private initiative of family life, therefore, is always to be preferred to governmental interference, and the latter is to be resorted to only when private initiative within the family, either for personal or social reasons, fails to function normally.

These conclusions are warranted by the experience of modern states. A policy of excessive legislation in family affairs makes a government top-heavy. As a result, taxes are increased, public officials multiplied, and political corruption flourishes. Finally, when laws become oppressive or meddlesome, their enforcement becomes impossible, and they remain a dead letter on the statute books. An overzealous government can easily defeat its own purpose. Thus it follows that the widest range of liberty consistent with the well-being of the individual members of the family and of the community, must be allowed parents in rearing their children, and the state is justified in restricting this liberty, only when the family clearly fails in the performance of its duties.

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[31] U. S. Department of Labor, Children's Bureau, Bulletin No. 141, p. 1.

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QUESTIONS FOR REVIEW

1. What is meant by describing the family as a social institution?
2. Show how the family safeguards personality. Show how it promotes peace and social well-being.

3. What are the rights of the child in the family? The mother? The father?
4. On what does the child's claim to a normal home rest?
5. What are the child's special needs for protection? The mother's?
6. What is the position of women in various primitive tribes?
7. Discuss the statement: As the family, so the nation.
8. Why is the family the main concern of every society?
9. Explain how the family is an economic unit. Show its importance as such.
10. Explain the family as a social school.
11. Define divorce.
12. Enumerate some economic conditions today which tend to weaken the family bond.
13. To what extent is divorce increasing? How can the increase be best measured?
14. Secure the latest marriage and divorce statistics from the United States Census Bureau, and make accurate deductions as to the increase of divorce.
15. What governmental authority grants divorce? Does a divorce affect the spiritual bond of matrimony?
16. How is divorce related to justice?
17. In view of the fact that every person possesses inviolable rights, is there a contradiction in the statement that the welfare of the race can never be subordinated to that of isolated individuals?
18. Explain the influence of precedent in social relations.
19. What is meant by "indissoluble marriage"?
20. What measures would be most effective in the prevention of divorce?
21. Is it possible in the United States to have a national divorce act to prevent the easy granting of divorces in certain States?
22. What are the principal views regarding the relation of the family to the state?
23. To what extent should the family be free from interference by the law?
24. To what extent is the state justified in interfering with the family?
25. What are the principles governing the relationship of the family to the state?
26. What was the substance of the decision of the United States Supreme Court in the Oregon school case as to the rights of the family in education?
27. Are compulsory education laws an interference with family rights? Juvenile courts?
28. It is said that the rights of the state with respect to the family are conditional and supplementary. Explain.

CHAPTER VIII

Industrialism and the Home

I. THE HOME OF 1815 AND THE HOME OF TODAY

II. HISTORICAL BACKGROUND

A. The Rise of the Factory System and the Development of Railroads Since 1850—B. The Concentration of Population in Cities—C. Economic Effects of Industrialism—D. Changes in the Home

III. UNMARRIED WOMEN WAGE-EARNERS

A. The Number of Unmarried Women Workers—B. Why Unmarried Women Work—C. The Wages of Unmarried Women Workers—D. The Wages That Unmarried Women Workers Should Receive—E. How to Secure Fair Wages for Unmarried Women Workers—F. Should More Women Go into Industry?

IV. MARRIED WOMEN WAGE-EARNERS

A. The Number of Married Women Wage-Earners—B. The Underlying Causes—C. The Effects on the Home—D. The Proposed Remedies

I. THE HOME OF 1815 AND THE HOME OF TODAY

American home life is undergoing fundamental changes. These changes may be observed by contrasting the home life of today with that of the early nineteenth century. One hundred years ago there were but six large towns in the United States: Boston, Salem, New York, Philadelphia, Baltimore, and Charleston. They could not properly be called cities, as they lacked the elementary conveniences of city life, such as sewerage systems, street lighting, and running water. In colonial times, the vast majority of homes were farm homes, and those in the towns were city homes in the modern sense of the term only because they were built close to one another. In 1820, five out of every one hundred persons (4.9 per cent) lived in a town of 8,000 or more inhabitants. At the present time, nearly forty-five out of every one hundred (43.8 per cent) live in a town of this size.[1]

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[1] U. S. Department of Commerce, The Integration of Industrial Operation, *Census Monograph* III, p. 24.

Professor McDonald describes the home life of 1815 as follows:

> The average farm house of the better class was commodious and comfortable. But houses were still heated by open fires or stoves, lighted by candles or whale-oil lamps, and supplied with water from springs or wells on the premises. Spinning, weaving, and dyeing were common household occupations, and ready-made clothing was unknown. Hand labor was the rule in the shop and on the farm, ministers received a part of their meager salaries in food or fuel, doctors bled, blistered, and purged, lawyers and judges "rode the circuit," and school teachers plied the rod and "boarded 'round."[2]

The average home of that time sought very little from the outside world. It produced practically everything that it consumed. Tea, salt, and a few farm tools were usually all that the home did not produce for itself. Moreover, in the production of goods, there was a clearly defined division of tasks between the men and the women. In general, agriculture was the work of the men, and manufacturing (in its original sense of making by hand) that of the women.[3] The father and sons cleared the forest, built the roads, planted and harvested the grain, bred and cared for the cattle, and made the necessary journeys to the ''city'' to exchange the surplus grain, meat, and textiles for the simple ''store'' luxuries that could not be produced in the home.

The mother's and the daughters' part in the work of production was no less essential. In addition to the routine task of the preparing meals and keeping the home in order, they stored the vegetables, and salted or smoked the meats for the winter. They spun and wove fleece into woolen clothing, and flax fibres into linen sheets and table cloths.[4] The making of candles from tallow, and soap from fats and greases was also women's work. They even cultivated vegetables for dyestuffs in order to give a cheerful touch to the simple home. In a word, all the immediate requirements of food, clothing, and comfort were provided by the women, and this work was done within the home itself. The factory system of today was scarcely begun by 1810.

The home in the typically modern city stands in sharp contrast to that of 1815. If a person looks about in his home and is inclined to draw up a list of the articles actually produced within its walls, he will find the items surprisingly few. In apartment dwellings the sole reminders of the tasks performed in the earlier American home are the services required to place food on the table and to keep the home in order. Even in other dwellings, the list will be very short, and it will be found that many

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[2] *From Jefferson to Lincoln*, Home University Library, p. 21.

[3] Abbott, *Women in Industry*, p. 11.

[4] Henry, *Women and the Labor Movement*, p. 33.

1850 [illegible] Spread of [illegible] Public School System

of the articles listed are only partially produced within their walls. The most important item is food. On the table are canned vegetables and fruits, prepared meats, "store" bread and cakes. These articles illustrate the fact that the factory system has taken over a large part of the work of cooking and baking. What was formerly done by the mother in the way of "getting" dinner or supper is now done in factories. It is the same with the making of clothing. Men's suits and overcoats are made by machinery in factories or tailoring shops, and it is almost unheard of to have a man ask his wife to make his clothes. Even women's and children's dresses and wearing apparel are purchased ready-made, and dressmaking in the home has all but disappeared. These articles of clothing can be bought in department stores much more cheaply than they can be made by hand. Even the mention of home-made shoes would startle one, and yet in the period of household economy, one hundred years ago, the making of shoes in the home was quite common. Thus the home is no longer an important center of production.

Less striking, perhaps, but still more significant, is the fact that the traditional housework performed by women is being rapidly taken over by outside agencies. A great deal of the laundering is done in commercial laundries, garments are cleaned and pressed in cleaning and pressing shops, while the janitor is expected to attend to the heating and sweeping of the apartment. The modern home, it may be said, is approaching the point where it will provide little more than meals and shelter. It is becoming less and less a producing centre of both goods and services. As a result, a large number of mothers, and a still larger number of daughters, must seek employment outside their homes to provide themselves with food, clothing and the comforts and luxuries of life. Increasingly, women are drawn to tasks in factories, offices, and stores, and are becoming wage-earners; they are working for employers in factories instead of working for themselves in their own homes.

II. HISTORICAL BACKGROUND

In order to have a proper perspective of the disappearance of household production during the past century, it is necessary to keep in mind the revolutionary forces that have been active during this period. The more important of these forces are the rise of the factory system and the development of transportation. A short account of the growth and development of the factory system and the railroads will first be given, and following this, a review of their effects on family life.

A. The Rise of the Factory System and the Development of Railroads Since 1850.—Although the factory system first took root in the United States during the War of 1812, its growth was very slow prior to 1850, as compared with its advance since then.[5] The factories of 1810 were chiefly textile mills, situated on navigable rivers, and driven by water power. The accessibility of water transportation or water power accounts very largely for the early prosperity of such seaports as Boston, New York, Philadelphia, and the inland towns of Pittsburgh and Albany.[6] But the output of the textile mills was not considerable. In 1810, Albert Gallatin, Secretary of the Treasury, reported to Congress that "about two-thirds of the clothing, including hosiery, and of the house and table linen, worn and used by the inhabitants of the United States, who do not reside in cities, is the product of family manufactures."[7] But with the general use of steam power after 1850, there was a phenomenal expansion of the factory system, not only in the weaving of cloth, but also in the manufacture of iron and steel, leather products, and agricultural implements.[8] This growth is reflected in the numerous technical improvements in manufacturing processes at the time. During the period, 1851–1860, 23,140 patents were issued, as compared with 5,942 during the period, 1841–1850, an increase of nearly 300 per cent. This increase has not been equaled in any decade since 1850.[9] As might be expected, the value added to goods by manufacture has increased enormously since 1850. In that year, the Census estimated the value added by manufacture at less than one-half billion dollars.[10] In 1929, the value added by manufacture was over twenty-seven billions.[11]

The development of the factory system with its machine-made goods was accompanied by improved facilities for carrying these goods to distant parts of the country. The early efforts to move trains by sails, and later by horses, gradually gave way to the steam railroad. Before 1850, the steam railroad was extremely primitive, and nearly all the lines were isolated or merely local. But since 1850, transportation by steam railroads has developed tremendously. From 1850 to 1860, mileage increased by nearly 300 per cent, and the system of railroads was on the way toward the intricate network that now covers the entire continent. There

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[5] U. S. Department of Commerce, *Census Monograph III*, p. 22.

[6] Coman, *Industrial History of the United States*, p. 208.

[7] Bogart and Thompson, *Readings in the Economic History of the United States*, p. 279.

[8] Bogart and Thompson, *op. cit.*, pp. 739–746.

[9] U. S. Department of Commerce, *op. cit.*, p. 25.

[10] Bogart and Thompson, *op. cit.*, p. 745.

[11] U. S. Department of Commerce, *Commerce Year Book*, 1929, Vol. I, p. 29.

1869 Transcont

are now over a quarter of a million miles of railroad in operation in the United States, as compared with less than 9,000 miles in 1850.[12]

B. The Concentration of Population in Cities.—With the development of factories and the means of transporting their products, it was but natural that the population should move toward the centres of manufacture. The movement toward the cities was especially noticeable during the early days of the factory system. Thus the Census of 1850, reported the urban population twice as great as that of 1840, while the total population during this decade increased by one-third.[13] Commerce and the development of markets had much to do with the migration toward the cities, but industrial forces were a still more powerful factor. In 1881, the Superintendent of the Census wrote: "I conceive that no one will hesitate to assent to the proposition that the growth of the cities of the United States since 1850 has been due in far greater measure to their development as manufacturing centres than to their increased business as centres for the distribution of commercial products." [14] This can be readily understood. The wheels of factories are driven by power, which is turned on and shut off at a fixed time in the morning and at night. In order to save time and transportation expense, workers must live relatively close to their places of employment. The cities of the United States have acted like so many magnets attracting men and women to their mills and shops, and compelling them to buy or rent homes near the shop gates.

The urbanization of the population has been stimulated by another important factor, namely, the rapidly decreasing area of cheap farm lands. Before 1850, public lands were abundant, and very cheap. Workers were in a position to take up farming if they did not wish to go into factories. Little or no capital was necessary to secure and work a claim.[15] But since 1850, and particularly since 1880, the amount of available cheap land has greatly decreased. At the present time there are practically no lands in the United States to which homesteaders can acquire a title.[16]

In another way the closing of the public domain has promoted the urbanization of the population. Since 1880, the tendency of immigrants entering the United States has been to remain in cities. This is due to several causes, one being the numerical preponderance among immigrants of men over women. The deciding factor, however, has been the inability of immigrants to go on farms because of a lack of capital. In 1910, the Immigration Commission found that two-thirds of the foreign-born population lived in cities of 2,500 or over, and that the larger cities contained the highest ratio of foreign-born to native-born persons.

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[12] U. S. Department of Commerce, *Census Monograph III*, p. 138.

[13] *Ibid.*, p. 24.

[14] Report on the Manufactures of the United States at the Tenth Census, 1883, Vol. II, p. xxii.

[15] U. S. Department of Labor, *Disposition of the Public Lands of the United States*, p. 10.

[16] *Ibid.*, p. 30.

A general review of American industrial history since the middle of the nineteenth century clearly shows that the concentration of the population in cities has run parallel to the development of the factory system. At present, nearly one-half of the American people (43.8 per cent) as compared with one-eighth of the population (12.5 per cent) in 1850, live in cities of 8,000 or over.[17] A similar redistribution has taken place within the last century in all the industrial nations of the world.[18]

C. Economic Effects of Industrialism.—In the growth of the factory system and the consequent urbanization of the American people, certain tendencies have developed which bear directly on family life. In the first place, there has developed a marked trend toward a smaller number of industrial plants of greatly increased capacity, with corporate ownership and control in the hands of relatively few persons. Thus in 1920, corporations operated less than one-third of the total number of establishments in industry, but employed nearly nine-tenths of the wage-earners, and produced nearly nine-tenths of the total value of the output. The average number of wage-earners in plants operated by corporations was 86 per establishment, and in plants operated by individual concerns was less than five per establishment.[19] This tendency toward concentration of control can be noticed especially in the manufacture of iron, steel, and woolens. From 1869 to 1919, the number of blast furnaces dropped from 386 to 195, while the number of workers increased from 27,554 to 41,660. From 1879 to 1919, the number of establishments manufacturing woolen and worsted goods dropped from 2,066 to 852, while the number of workers increased from 105,307 to 166,787.[20] Practically the same trend can be observed in all of the manufacturing industries.

The enlargement of individual plants and the reduction of their number has been prompted by certain economies which could not be effected in a multitude of small establishments. Chief among these economies is

[17] U. S. Department of Commerce, *Census Monograph III*, p. 24.

[18] Thompson, *Urbanization*, pp. 5–6.

[19] U. S. Department of Commerce, *Census Monograph III*, p. 92; *Monthly Labor Review*, October, 1927; President's Conference Committee, *Recent Economic Changes*, Vol. I, p. 180 *et passim*.

[20] U. S. Department of Commerce, *Census Monograph III*, pp. 56–59.

the division of the whole job into numerous simple tasks which are performed by specialized machines, each one performing an isolated operation. For example, in a coat factory over three hundred employees may work on a single garment, each one executing but one operation. One worker cuts the cloth; another bastes; a third presses; still another makes pockets; and so on until the garment is completed. This system of subdivided labor is, of course, possible only in large factories employing hundreds or even thousands of workers. In the typical modern factory, for example, an automobile plant, the raw materials enter at one point and pass through many different hands before the finished product emerges. Each worker performs the same task day after day. This intricate system of subdivided labor has been made possible by numerous ingeniously contrived machines, each discharging its specialized task and frequently requiring little skill or physical strength of its operator.

The system of subdivided labor has been extended to all the branches of industry, with the result that large numbers of girls and women, as well as men, have been set to work at unskilled operations at unskilled wages. From 1880 to 1920, the period during which women entered industry in large numbers, two phenomena, each influencing the other, were observable. First, the cheapness, and, frequently, the superiority of factory-made goods rendered it unprofitable for women to produce these goods in their homes. Secondly, because their homes did not provide sufficient useful work, it became necessary for them to seek employment in shops and factories. In this way they could earn enough to procure for themselves the more inexpensive factory-products. Thus the girl factory-worker found herself in a position to purchase the various economically produced articles made by other girls employed in other factories.

A survey of the enforced emigration of women from their homes to factories and offices would not be complete without a reference to the part played by the railroads in promoting the growth of the factory system and large-scale production. The railroads have not only helped enormously in building up mammoth factories, but, in addition, have contributed directly to the standardization of wages of both men and women. By moving cheaply, expeditiously, and in great quantities, the products of large factories to the points where they are in demand, the railroads bring the goods of one section of the country into competition with the goods of another. To illustrate: a nationally advertised brand of candy made in Philadelphia is shipped to a dealer in St. Louis, and a nationally advertised brand of candy made in St. Louis is shipped to a dealer in

Philadelphia. As a result, the labor contained in the Philadelphia product competes with the labor in the St. Louis product, or, what is the same thing, the women candy makers in Philadelphia compete with those in St. Louis, and in consequence their wages tend to be about equal. The same is true of practically all manufactured articles, whether food-products, clothing, or luxuries. One of the outstanding effects of transportation, therefore, has been the establishment of practically uniform wage levels for the same classes of women workers throughout the United States.

In addition, transportation has aided in bringing women into competition with men workers. This it has done by bringing the products of women workers into competition with those of men. Women are now engaged in all but 35 of the 572 occupations listed by the Census. Because of the competition of women with women, and the employment of women at machine tasks formerly done by men, the earnings of women tend to approximate those of men, and the wages of men show a decided tendency to become an individual, rather than a family, income. The evil effects which the competition of women with men workers has on public welfare, were pointed out by the United States Industrial Commission in its final report in 1915. The Commission declared: "The increased employment of women under present working conditions is a serious menace to their own health and well-being, to the wages of their husbands and brothers, and to the ideals of family life upon which American civilization has been established."[21]

The tendency of wages to suffice for the individual but not for the family, is made evident by the fact that not uncommonly after marriage, both husband and wife find it necessary to engage in gainful employment. The conditions existing in a typical manufacturing city constitute a vicious circle of alternating causes and effects. Women enter industry and compete with men for jobs. As a rule, women can and do work for a lower wage than men, their yearly earnings averaging a little over one-half those of men.[22] But the competition of women reduces the wages of men and tends directly to lessen the number of men employed. As a result, a young man working in a factory is forced, in many instances, to postpone any definite plan or date of marriage. His wage, frequently not much higher, is at times even lower than that of his prospective wife. As he calculates, his own wage will not be sufficient to support himself, a wife, and children, and he therefore defers marriage. If he does marry, his low wage often makes it necessary for his wife to continue working outside the home in order to help support the family. The wife, in turn, competes with her own husband and with other men, with additional evil results for all the families in the manufacturing population.

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[21] Final Report and Testimony, Vol. I, p. 72.

[22] U. S. Department of Commerce, *Census Monograph X*, p. 85.

D. Changes in the Home.—Because of the revolutionary forces just described, home life has undergone radical changes. Only the more prominent of these changes can be discussed here. They may be grouped together insofar (*a*) as they affect women themselves, and (*b*) as they affect the family.

(*a*) In the first group of changes there is the astounding fact that eight and one-half million women are gainfully employed in the United States, and of this number about two million are married women. The ratio of women to men in gainful occupations is one to five. The proportionate number of women thus engaged, has steadily increased with the advance of industrialism since the eighties. Of significance here is the fact that the overwhelming majority of women who enter gainful employment do so in order to make a living. They go to work in order to secure the necessaries of life. A very small percentage, particularly in the professional groups, e. g., teachers, nurses, and physicians, achieve economic independence, and do not need financial assistance from their fathers or brothers. Although this is not true of the great majority of women workers, all of them come to feel that they have their "own money." This change has made itself felt in political life. With the increase in the number of women working for wages the demand for political independence and the right to vote grew more insistent, and in 1920, the Federal Constitution was amended to permit women to vote on an equal basis with men. It is too early to estimate the effects of woman suffrage, but it may be observed that since its introduction, there has been an increased interest on the part of the general public in questions of public welfare as shown by current agitation for laws safeguarding woman and child workers.[23]

Another noteworthy development since 1900 is the rapid extension of women's clubs and organizations of various kinds. This movement is to be studied in connection with the fact that home work and home duties have decreased considerably with the advance of the factory system. Annie MacLean writes that, because of the development of machinery many able-bodied women are "suffering from the ills of super-imposed leisure."[24] The factory system, therefore, has enabled more and more women of the middle classes to seek culture and diversion in clubs and societies, because of their added freedom from home tasks.

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[23] Ogg and Ray, *Introduction to American Government,* pp. 202–203.

(*b*) The second group of changes has to do with home life itself. The most serious of these changes has been the rapidly increasing divorce rate, which has run parallel with the increase in the number of women employed outside their homes. At present, 1930, ten out of every sixty-two marriages end in divorce. It is not to be inferred that gainful employment necessarily causes or occasions divorce. But it is undeniable that the environment of industry and commerce provides an atmosphere favorable to its propagation. Shops, factories, and offices bring men and women together without the safeguards which the experience of history has shown to be necessary for the protection of reserve and modesty. Moreover, the false ideals of individualism created by the separate purses of the husband and the wife, tend to create an unhealthy self-interest which aids in undermining family unity. To these elements is to be added the dearth of children so usual in families of married couples in which both husband and wife work outside the home. These are the deeper and more important factors operating in modern industrial society toward the increase of divorce.

In still other ways the factory system has aided in individualizing society to the detriment of family life. At present there are four automobiles for every five families in the United States. The automobile has a tendency to separate the members of the family from one another, because, very often, it takes some of them from the common meeting place in the home. Another disintegrating influence on the family is commercialized amusement. This is a by-product of industry, and forms a part of the "life" of the city. The movie theatre, the dance hall, the soft-drink parlor, the pool hall, and other gathering places have sprung up in response to the need of the industrial population for relief from the nervous tension and monotony of the factory.[25] It is scarcely necessary to add, of course, that recreation and relaxation in legitimate forms are necessary for urban dwellers. But whatever is said for or against the diversions of city life, the fact remains that the various forms of commercialized amusement act as disrupters of family unity, by scattering the family members in different directions in search of relaxation and entertainment.

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[24] *Women Workers and Society*, p. 11.

[25] U. S. Department of the Treasury, *High Schools and Sex Education*, p. 69.

III. UNMARRIED WOMEN WAGE-EARNERS

The changes in home life brought about by the factory system have affected women as workers far more than men. The work of men has always carried them away from the family circle in quest of the necessaries of life. In this respect, industrialism has not changed the work of men. But the work of women has always been close to the home and growing children, and consequently, the exodus of women into gainful occupations has greatly altered their position as workers. In view of the fact that women are either potential or actual mothers, to study the causes separating them from their homes is to study one of the main causes tending to break down the family life of the present and of the future.

A simple division of the subject immediately suggests itself: First, the problems of the unmarried woman wage-earner; and secondly, the problems of the married woman wage-earner.

The problems of the unmarried woman worker may be viewed from the following angles: (A) How many unmarried women workers are there? (B) Why do they work? (C) What wages do they receive? (D) What wages should they receive? (E) How can they secure fair wages? (F) Should more women become wage-earners?

A. The Number of Unmarried Women Workers.—There are over six million unmarried women in gainful occupations in the United States. As the total number of women gainfully employed is 8,549,511, and of these the estimated figure of married is two millions, the number of the unmarried is about six and one-half millions. Of all women in gainful occupations the ratio is three unmarried (single, widowed, or divorced) to one married. Since there are in the United States 40,449,346 women ten years of age or over, the proportion of unmarried women at work is approximately as one to seven. Married and unmarried women taken together constitute 21.1 per cent of the entire number of women ten years of age and over.[26] Of the 21.1 per cent who are in all occupations, 2.7 per cent are in agriculture, forestry, and animal husbandry, and the remaining 18.4 per cent are in non-agricultural occupations.[27]

Out of every hundred of the eight and one-half million women workers, twenty-five are in domestic and personal service, including domestic servants, barbers, hairdressers, elevator tenders, and laundry operatives; twenty-two are in the manufacturing and mechanical industries, chiefly in textile and clothing factories; sixteen are in clerical occupations, mainly saleswomen in stores; twelve are in agriculture, forestry, and animal husbandry; eleven are in the professions such as trained nursing and teaching; seven are engaged in trade, including banking, brokering, money lending, real estate and insurance; two are in transportation, including telephone operators; and the others are either in public service as attendance or probation officers or in unclassified occupations.[28]

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[26] U. S. Department of Labor, Women's Bureau, Bulletin No. 46, pp. 4–6.
[27] *Ibid.*, p. 8.

B. Why Unmarried Women Work.—Why do unmarried women work? The answer to this question can be stated briefly. Minor and adult unmarried women work in factories, stores, and offices in order to secure a livelihood. In both civilized and savage communities there is a sexual division of labor. It has always been recognized that men have a special ability and talent for certain kinds of work, and that women have a special ability and talent for other kinds. The practices of both civilized and primitive society have evolved an unquestioned acceptance of the biological fact that the physical structure and talents of woman fit her especially for duties near the home, involving less physical strength, risk, and hardship; and that the physical strength and endurance of man equip him particularly for the heavier and more dangerous occupations away from the home. As was seen above, however, the growth of modern industry has completely revolutionized the methods of producing the necessaries of life, with the result that the household has been robbed of the economic tasks formerly discharged by women. Under modern conditions the home can no longer contribute in any important way to the production of goods necessary for personal and domestic needs. As a consequence, unmarried women of the middle and poorer classes are forced to choose between idleness in their homes and useful work outside of them.

It is unfair to assume, as some do, that the majority of girls go to work in order to have luxuries or to have available "pin-money." The "pin-money" theory has long since been disproved. Miss Hutchinson writes: "The data that have been accumulated in wage inquiries during the last ten years have shown no foundation in fact for the pin-money theory of women's earnings. On the contrary, they make clear that the overwhelming majority of wage-earning girls, at least three-fourths, contribute all of their earnings to the family purse. Over twenty per cent more give part of their earnings. Not infrequently there is no adult male wage-earner in the family." [29] The Women's Bureau reports that at present 60 per cent of all daughters gainfully employed contribute all their earnings to family support.[30] The answer then to the question: "Why do girls become wage-earners?" is that, in almost all cases, they do so in order either to support themselves or, in addition, to help support other members of the family.

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[28] U. S. Department of Labor, Women's Bureau, Bulletin No. 27, p. 1.

C. The Wages of Unmarried Women Workers.—What wages do unmarried women workers receive? This question is difficult to answer in terms of the entire country. There are many divergent factors to be taken into account. Thus, there is considerable difference between the earnings of women in the Southern States and those of their sisters in the Northern States; the former being from three to eight dollars per week lower. The Women's Bureau reports the median earnings (i. e., half of the workers received less, and half more, than this amount) of women employees ranged from $8.60 per week in Mississippi to $16.85 in Rhode Island.[31] Again, the earnings of women in the Northern States vary considerably according to the size of cities. Another factor is the absence of legal regulation of the working hours in some States as contrasted with the rigid regulation in others. Thus the law of Pennsylvania prohibits the employment of women in excess of fifty-four hours per week; Virginia prohibits their employment beyond seventy hours per week; and Alabama prescribes no limits whatsoever. Then, too, there are wage variations according to the ages of girls, and these variations within the same industry may be as high as eight dollars per week. Finally, in this connection it is to be remembered that the averages given in government reports usually cover the earnings of married and unmarried women taken together, whereas, those of the former tend to be somewhat higher. Flat averages, therefore, for the whole country are not illuminating.

If the inquiry is restricted to the earnings of women workers in specified industries, some idea of actual earnings can be obtained. Thus the Women's Bureau reports that in the limited-price chain department stores (5-and-10-cent, and 5-10-25-cent stores) the median wage is $12 per week; one-half of the workers receive more, the other half less, than this amount. In laundries the weekly median is $16.10. The median weekly earnings of Negro women in four States is $5.70 or less; in two States,

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[29] *Women's Wages,* Columbia University Studies in Political Science, Vol. LXXXIX, No. 1, p. 44.

[30] U. S. Department of Labor, *Eleventh Annual Report of the Director of the Women's Bureau,* 1929, p. 19.

[31] U. S. Department of Labor, Women's Bureau, Bulletin No. 59, p. 10.

$11.30 or more; and in five States, they range from $6.10 to $8.65.[32] It is to be noted that these weekly earnings cannot be multiplied by fifty-two in order to determine the yearly incomes of these workers. The yearly incomes would be considerably less than fifty-two times the weekly rate, because of time lost on account of unemployment, broken and irregular employment, and illness.

From the available data on the actual yearly earnings of girl workers, it is quite safe to say that fully one-third and perhaps one-half of the two million women working in factories in the United States, are receiving less than the amount necessary to provide food, clothing, shelter and the elementary decencies of life.[33] The method of determining the amount of money necessary for the minimum needs of health and decency for a working girl will be explained presently.

D. The Wages That Unmarried Women Workers Should Receive.—The lowest wage that should be paid an unmarried woman worker is the amount required to secure to her the necessaries and decencies of life. This statement immediately raises the question as to how to determine in dollars and cents a working girl's cost of living. Wage boards meet this problem in a practical way by holding public hearings and taking testimony from various groups. The data thus obtained are then used as a basis to determine the quantitative (not cost) amounts of food, shelter, clothing, and miscellaneous articles, necessary to maintain a working girl in health and decency in a given locality. The schedule of these items is called a budget. The price of each item is then secured and is multiplied by the estimated quantity required every week. The combined cost of all the items is the cost of living per week in dollars and cents. The Department of Labor and Industries of Massachusetts, in 1926–27, prescribed the weekly cost-of-living budgets for women workers, shown on the opposite page.

The total cost of the items included in a fair budget is the lowest amount of weekly wages that should be paid a working girl. She cannot expect, except in unusual cases, to be paid additional amounts for the support of dependent parents, brothers, or sisters. Her strict right is limited to a wage necessary to maintain herself in health and decency. Her dignity as a human being demands that she be paid nothing less than this amount. This holds true, whether the girl is living at home or away from home. It is sometimes objected that the same budget should

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[32] U. S. Department of Labor, *Eleventh Annual Report of the Director of the Women's Bureau*, 1929, pp. 9–16.

[33] McGowan, *Women in Industry*, Pamphlet, p. 17.

WEEKLY COST-OF-LIVING BUDGETS FOR WOMEN WORKERS IN MASSACHUSETTS.[34]

Items	*Stationery goods etc., industry*	*Candy industry*	*Jewelry and related industries*	*Toys, games, etc., industry*
Board and Lodging	$8.36	$8.00	$8.00	$8.00
Clothing	1.93	2.00	2.65	3.00
Laundry	.24	.25	.25	.35
Doctor, dentist, and oculist	.31	.50	.40	.40
Carfares	1.13	.80	.35	.35
Church	.23	.15	.35	.15
Self-improvement	.18	.15	.35	.20
Vacation	.44	.25	.50	.25
Recreation	.25	.25	.50	.25
Reserve for emergency	.29	.25	.75	.20
Mutual Association dues	—	.15	.10	.10
Insurance	.18	—	.25	—
Incidentals	.21	.25	.50	.25
Total	13.75	13.00	14.95	13.50
Wage fixed	13.75	13.00	14.40	13.50

not be used for the working girl who lives at home, as for the girl who boards away from home. In practice, this objection seems to be not well grounded. The working girl who lives with her parents shares in the rent, furniture, light, and heat benefits of the home, and in her mother's housekeeping services. To this extent, it is true, she receives a weekly gratuity of economic value. In many instances, however, the girl makes compensation to her parents by assisting with the household duties. Everything considered, there is little or no economic advantage to the girl who lives at home as compared with the girl who boards out.[35] In any event, whatever advantage the former may enjoy should be regarded as a gratuity from her parents. Industry, therefore, violates justice when it appropriates this gratuity by paying the girl who lives at home a lower wage than it pays her less fortunate sister.

E. How to Secure Fair Wages for Unmarried Women Workers.—There are but two avenues open to women workers by which they can secure fair wages: organization and legislation. By organization is meant the forming of trade or industrial unions among wage-earning women so that they can freely select representatives who will bargain for them with representatives of their employers. This would be an effective and dignified method of securing just wages for working girls, but unfortunately progress in organizing the women workers of the United States has been very slow. Only about seven per cent of the women gainfully employed, including those in agriculture, are affiliated with trade unions, while over twenty-five per cent of the men wage-earners are organized.[36] The small proportion of organized women is explained by the fact that women wage-earners are concentrated in the low-wage and unskilled trades. Besides, their stay in industry is temporary as compared with that of men. For these reasons it is extremely difficult, if not impossible, to organize women workers into effective trade unions.

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[34] U. S. Department of Labor, *Monthly Labor Review*, February, 1927, p. 25; for budget of the Texas Bureau of Labor Statistics see *ibid.*, April, 1929, pp. 88–89; for those of Canadian Boards see *ibid.*, February, 1929, pp. 43–44.

[35] Hutchinson, *op. cit.*, p. 45.

The other means is legislation. From 1912 to 1922, fourteen States and the District of Columbia passed laws, setting a minimum weekly amount, for less than which no woman worker might be legally employed. Such legislation, however, has been declared by the United States Supreme Court to be an infringement of the freedom of contract, and therefore, a violation of the fifth and fourteenth Amendments of the Federal Constitution. The only hope, it would seem, for future legislation which will safeguard the wages of working women lies in an amendment to the Constitution, empowering the various States to pass minimum-wage laws.

F. Should More Women Go into Industry?—Should more unmarried women be encouraged to become wage-earners? This question may be answered by saying that sound social policy dictates that the movement of women to factories should not be encouraged either by state intervention or by public opinion. It is futile, of course, to propose that all girls should stay out of factories and workshops, and remain at home, for the obvious reason that there is work in the factories and workshops that they can do, and there is little, if any, gainful work for them to do in their homes. To oblige them to remain at home, would be tantamount to sentencing them to lives of idleness and depriving them of the necessities, or, at least, the conveniences of life. It must be observed, however, that an industrial occupation for the average young girl, is only a temporary occupation before marriage.

Modern industry, it is true, affords girls an important form of opportunity which the household system of production in the early nineteenth century did not offer them. Every girl has the right either to marry or to remain single. Under the modern system of production she can choose the latter course with a loss of self-respect hardly comparable to that she would have suffered under the household system of production in 1850. Nevertheless, when all is said, the average girl looks forward to the time when she will have her own home, and be the mother of a family. It is an unwise social policy, therefore, to advocate vocational training for women in the trades in order to increase the number of girls in industry, and to make gainful occupations in industry their life work. Mary N. Winslow says: "We are asking that single women be offered a future in industry, that they be recognized as economic factors, both in industry and in the home, and that they be given vocational training and opportnity in the occupations they enter. The single woman is coming into her own." [37] This program may be warranted in the case of the comparatively small number of girls who do not intend to marry and establish families, but it is surely not warranted in the case of the overwhelming majority of girls now engaged in gainful occupations and of those who will enter industry in years to come.

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[36] Wolman, *The Survey,* March 15, 1925.

IV. MARRIED WOMEN WAGE-EARNERS

Home life among the working population of the United States is seriously threatened by the constantly increasing number of married women who work for wages outside of their homes. The Women's Bureau declares: "The employment of married women is a subject of great importance today. It is linked so closely with the welfare of the home and the family and related so definitely in the long run to the health of the race and the progress of the Nation that it has become one of the most complex problems before the country." [38]

A survey of the problem will naturally deal with: (A) The number of married women wage-earners; (B) The underlying causes; (C) The effects on the home; (D) The proposed remedies.

A. The Number of Married Women Wage-Earners.—About one-fourth, or nearly two millions, of all the women workers in the United States are married. This figure includes only married women living with their husbands. A general estimate like this, however, does not present an accurate view of the situation. Special attention should be directed to the urban districts where the wage-earning population is concentrated. In the wage-earning sections of cities, it is found invariably that the percentage of married women who work away from home, is noticeably higher than it is in the non-wage-earning districts. The officials of the Women's Bureau found in 1922 that over 38 per cent of the entire woman population in Jacksonville, Wilkes-Barre, Butte, and Passaic were gainfully employed, either in or outside their homes. Over one-half (55 per cent) of the working women in these four cities were married or had been married, whereas less than one-fourth of all the working women in the entire country are married.[39] A later study made by the Bureau in Flint, Michigan, showed even a greater percentage of married women employed. The report of this study states: ''The records of 1,783 women show the proportion of married workers to be nearly two-fifths (38.7 per cent) of all the workers, and if those who had been married are included with the married a little more than one-half (53.7 per cent) were or had been married. Of the women wanting work, 72.1 per cent were or had been married.'' [40]

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[37] Address at the National Conference of Social Work, 1923, published by the U. S. Department of Labor, Women's Bureau, Bulletin No. 38, p. 8.

[38] U. S. Department of Labor, Women's Bureau, *Eleventh Annual Report of the Director of the Women's Bureau,* 1929, p. 25.

In a study made of six industrial districts of Philadelphia it was discovered that one out of every five among the eleven thousand married women interviewed, worked for wages.[41] Studies made elsewhere show that the proportion of married women gainfully employed in industrial districts is very high as compared with the proportion of married women gainfully employed in non-industrial or residential districts. This fact is significant in analyzing the causes of the employment of married women.[42]

B. The Underlying Causes.—The theory is sometimes advanced that married women go into industry in order to improve their living standards, for example, to secure a high-school education for their children, or to enjoy comforts and conveniences they could not otherwise possess. This theory may be true of a very small number of working mothers, but exact studies show that this group forms an almost negligible portion of the total number of married women workers. The overwhelming majority go into industry because of economic necessity. In the study made of the six working districts of Philadelphia, only eleven per cent of all the married women worked for wages as a matter of choice. The other eighty-nine per cent were compelled to work in order to secure the bare necessities of life for themselves and their families. The findings of the Women's Bureau are even more conclusive. Scarcely more than one-fifth of the bread-winning mothers of young children in Jacksonville, Wilkes-Barre, Butte, and Passaic had any help in the performance of their household duties. The help with the household work and the care of the children came chiefly from the older children, relatives, or lodgers. In addition, more than one-fifth of the mothers worked at night, and cared for the children at intervals during the day.[43] The only reasonable interpretation that can be placed upon these data is that a very large percentage of married women work because of the inadequate income of their husbands.[44]

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[39] U. S. Department of Labor, Women's Bureau, Bulletin No. 41, pp. 7–9.
[40] U. S. Department of Labor, Women's Bureau, Bulletin No. 67, p. 45.
[41] Hughes, *Mothers in Industry*, p. 33.
[42] See *The Family*, November, 1928; *Current History*, August, 1927.
[43] U. S. Department of Labor, Women's Bureau, Bulletin No. 41, p. 17.

The correctness of this interpretation can be tested in any industrial district. An example is a recent study of the home life of the pupils in a public school located in a manufacturing neighborhood in Milwaukee. The 540 children of this school came from 342 families. For seventy-two families represented by children of kindergarten age, no data were available. Of the remaining 270 families, 50, or 18 per cent, listed both father and mother as working outside the home. These figures did not include families in which one parent was dead, nor the families of divorced or separated parents. The teachers who made this study reported: "There is no doubt that in almost every family, it is absolutely necessary for the mother to work and supplement her husband's income with her earnings. There were only two cases in which that did not seem to be necessary. In one family of three children, aged 9, 7, and 2, both father and mother work steadily and earn good salaries. The other is a case in which both father and mother are teachers. They work not only in the day, but teach night school as well and they both teach during the summer."

C. The Effects on the Home.—The evil effects on child life caused by the employment of mothers have been shown by numerous investigations conducted in wage-earning communities. Thus the Children's Bureau found that the infant mortality rate in eight cities was nearly twice as great among mothers employed away from their homes as among mothers who were not so employed.[45]

A second evil arising from the employment of mothers is the lack of care and supervision suffered by infants and minor children because of their mothers' absence during the day. It is obviously difficult to measure this privation and its evil effects on children in a quantitative way. Miss Hughes concludes from the data gathered in Philadelphia:

> There are, however, certain effects on child life which arise in connection with wage-earning by mothers, no matter what their causes. Among such effects may be mentioned: weakening of parental control, lowering of educational standards and apparently excessive demand on children for services in the home.[46]

In the study made in the Milwaukee school referred to above, the teachers reported:

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[44] U. S. Department of Labor, *Eleventh Annual Report of the Director of the Women's Bureau*, 1929, p. 20.
[45] U. S. Department of Labor, Children's Bureau, Bulletin No. 142, p. 133.
[46] *Mothers in Industry*, p. 207.

> In 15 cases the mother comes home at noon and gets lunch for herself and the children. In one case, the father comes home at noon, but in all these cases as well as in eleven cases where the mother does not come home at noon, no provision is made for the care of the children between 3: 30, when they leave school, and 5: 30 or 6: 00, when the parents get home. The children usually have a key and go in when they return from school. In looking over these cases, we find that it is from this group that most of our serious discipline cases come.

In a study made of eighty-seven working mothers conducted in another Milwaukee school with a registration of five hundred pupils, the principal reports:

> We had expected to find *all* our "discipline cases" in these families, but this is not true. The children, however, are often much oppressed and worried by the lack of means at home, sensitive of their poor clothes, etc. They usually suffer from lack of nourishment—hasty, insufficient, and badly prepared meals. They lack suitable, sometimes lack clean, clothes—although this is not always so. They are strained, worried, unhappy, in comparison with the happy-go-lucky child of the sheltered home. Sometimes they get into trouble because of lack of supervision. Then we find the usual result is truancy, bad companions, stealing from stores, irregular hours of sleep, and a spirit of adventure approaching banditry.

D. The Proposed Remedies.—Two remedies have been proposed to meet the problem of married women in industry. The first calls for certain changes in the operation of factories, so that mothers can be employed as workers on a part-time basis, and spend the remainder of the day at their household duties. This plan is intended to give those mothers an opportunity to work who are forced to do so because of the illness, desertion, or death of their husbands, or because of their husbands' inadequate wages. This plan is, at best, an emergency arrangement, which can do little more than relieve immediate suffering and distress. As a permanent policy, however, it is essentially unsound, because it is an attempt to compromise family life with industry. In all sound social planning, industry must be recognized as the servant of human institutions, and human institutions must not be subordinated to the needs of industrial operation. Other means of relieving poverty that do not involve a dislocation of the family can easily be devised. Such means include mothers' pensions, the various forms of outdoor relief, and, in every case when the father is willing and able to work, the payment of a family living wage.

The second remedy proposed is the exclusion of all married women from factory work and gainful trades outside of their homes. As to married women with children, there can be little question as to the soundness of this plan. Clearly, no children should be deprived of the care and supervision of their mother throughout the entire day. In the case of married women without children, the same remedy should be employed. They should be excluded from gainful occupation outside of their home, on the broad grounds of sound social policy. Factory work discourages the bearing of children, and experience shows abundantly that the absence of children is a fruitful cause of divorce and irregular living.

The exclusion of married women assumes, of course, that the father, or the husband, be paid a wage sufficient to maintain the family members in health and decency. Indeed, one of the effects of excluding married women from industry would be to advance the movement toward establishing living wages for all male workers. When the number of women workers is reduced, there will be less competition, and less unemployment for men wage-earners, and in consequence their wages will rise appreciably. The entire problem of married women in industry will tend to solve itself through the universal introduction of the living wage for the fathers of families. It was seen above that the major cause of the large number of married women in industry is insufficient family income. When this cause is removed, the condition it produces will disappear, and the mother will be enabled to follow her maternal instincts of providing a home for her husband and children.

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QUESTIONS FOR REVIEW

1. Show how the earlier home differs from the home of today.
2. What are the forces that have changed the home so radically?
3. Show how the factory system has concentrated population.
4. What are the facts regarding the drift of people to the city? Compare the figures of urban and rural population for the last five Censuses.
5. What have been the economic effects of industrialism?
6. Explain the term "division of labor."
7. To what extent has large-scale production superseded that of smaller units?
8. How has industrialism affected the number of women workers?
9. Outline the changes which have been forced upon the home by modern industrialism.
10. Show the relative extent of married and unmarried women engaged in gainful employment.
11. What are the special problems growing out of the working of unmarried women? Of married women?
12. Why do unmarried women work? Married women?
13. What conclusions may be drawn as to the wages secured by women?
14. How do women's wages compare with those of men?

15. How does individualism affect wages?
16. When the work is the same, should women receive the same pay as men?
17. Can women compete with men in all the occupations listed by the Bureau of the Census?
18. What should be the standard of women's wages?
19. Do women workers secure a living wage?
20. Draw up a weekly budget for a wage-earning girl who lives away from home.
21. How may fair wages be secured for women workers?
22. Should more women go into industry? What is likely to be the trend?
23. Discuss: Woman's place is in the home.
24. Is governmental *laissez-faire* applicable to women in industry?
25. What social effects follow from the employment of married women outside their homes?
26. Suggest possible ways of making family life more satisfactory in the present economic system.
27. What remedies should be applied to correct the evils resulting from the employment of married women working outside the home?
28. Does social legislation, enacted for women exclusively and not for men, assume that women are not essentially equal to men?
29. How do minimum-wage laws restrict freedom of contract? Whose freedom is more restricted by such laws, that of the woman worker, or that of the employer?
30. Define "public opinion." What are the more important obstacles to the development of healthy public opinion regarding the problems of women workers?

CHAPTER IX

ORIGIN AND AUTHORITY OF THE STATE

I. DEFINITION OF A STATE

II. ORIGIN OF CIVIL SOCIETY

A. Theories of Hobbes, Locke, and Rousseau—B. Civil Society Necessary for Human Welfare—C. Government Found Among All Peoples—D. Government Based on Natural Attraction for Society

III. THE MODERN NATIONAL STATE

A. Modern State Best Suited to Modern Needs

IV. THE CONCEPT OF AUTHORITY

A. Authority Defined—B. Authority a Moral Power—C. Civil Authority a Human Need—D. Civil Authority Is from God—E. Divine Origin of Authority, Two Meanings—F. Law, Definition, and Explanation—G. Binding Force of Civil Laws

I. DEFINITION OF A STATE

A state is an association of individuals and families, formed to promote temporal well-being under the direction of a recognized authority. This definition contains the two principal elements found in every state, namely, population and authority. Obviously, a state must have inhabitants, and some form of government to give oneness to their activities. But these two elements imply the existence of other important elements. These are territory, unity, independence, and continuity.[1]

First, it is clear that a state cannot exist unless it has definite geographical boundaries. It is possible indeed for a government to function as a "traveling" political organization without fixed territorial limits. Such was the political organization of the Goths, Franks, and Huns in Central Europe prior to the fifth century; and it is the dominant organization among nomadic tribes at present.[2] It is not necessary to delay on this point, as the present treatment is limited to the modern civilized state. Secondly, all, regardless of their racial, religious, linguistic, or economic affiliations, must be united in supporting the established government. In other words, a state must be one and undivided. It cannot tolerate divisions within itself without ceasing to exist. Thirdly, the state must be autonomous, or free from external control, in the sense that it is supreme in enacting, interpreting, and executing laws for its subjects. Obviously, a state must possess autonomy insofar as this is consistent with the welfare of other states. Without autonomy the division of the world into separate political units would be impossible. Finally, the state must be permanent. This does not mean that the policies of a government may not change. Thus in a constitutional monarchy, such as England, policies may, and do, change according to the will of the party in office. But the state itself continues. The central authority of a state may be seriously challenged, for a time, but so long as its sovereign power ultimately prevails, even though it may have been suspended for some years, the state itself cannot be said to have changed, or to have been superseded by a new state. In the United States, the Federal Government continued during and after the Civil War, although its sovereignty was gravely threatened by the efforts made to set up and perpetuate a separate government.

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[1] Ogg and Ray, *Introduction to American Government*, p. 9.

[2] Wilson, *The State*, p. 7.

Aristotle enumerates the various classes of persons necessary for a state. He says: "A proper number of husbandmen are necessary to procure food, also artificers and soldiers, and rich men, and priests, and judges, to determine what is right and proper."[3] The personnel of all these groups, however, are not to be regarded as officials of the state. For even though, according to Aristotle, a religious establishment is "the chief concern" of the state, priests are not civil functionaries, because religion is not an office of the state. The determination of the religion which people may choose to follow, must be left to the consciences of the people themselves. In the definition given above, it was said that a state is established to promote *temporal* well-being. To assist in the attainment of *eternal* well-being, another form of society is necessary, namely, the Church. The function of the state is to help man to attain temporal happiness; that of the Church is to help him to attain eternal happiness.

II. ORIGIN OF CIVIL SOCIETY

What is the origin of the state? Here, no attempt is made to account for the historical origin of any modern state, nor for the first beginnings of government at the dawn of history. Some modern states, like the American state, owe their origin to colonization and revolution. Interesting as it would be to trace the rise and growth of various states, the present question is rather: "Why are governments set up at all?" or, "Why do people establish them?" This is not a purely speculative question. It is full of practical significance. On the answer to it depend much of the reasoning and many of the policies embodied in laws, and the philosophy employed by courts in interpreting them.

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[3] *Politics*, Book VII, Chapter viii.

Two answers have been given to the question: "Why do people establish governments?" One answer, given by writers such as Hobbes and Rousseau, maintains that a government is a purely artificial and unnatural arrangement. According to these writers, it is contrary to man's nature to live in civil society, and, therefore, governments unduly hamper man's liberty, and reduce him to slavery. The second answer is that given by most ancient and modern writers, who maintain that civil government is entirely in harmony with the nature of human beings, and is requisite for their physical and spiritual welfare. Professor Laski writes: "Man finds himself, in the modern world, living under the authority of governments; and the obligation to obey their orders arises from the facts of his nature. For he is a community-building animal, driven by inherited instinct to live with his fellows. Crusoe on his desert island, or St. Simon Stylites upon his pillar, may defy the normal impulses which make them men; but, for the vast majority, to live with others is the condition of a rational existence."[4]

A. Theories of Hobbes, Locke, and Rousseau.—Thomas Hobbes (1588–1679) taught that war and struggle are the natural activities of man. He said: "So that in man we find three principal causes of quarrel. First, competition; secondly, diffidence; thirdly, glory."[5] Consequently, there is a "war of every man against every other man." Hobbes concluded that men covenant with one another and establish a commonwealth, or state, in order to put an end to warfare and rescue themselves from greater evils. John Locke (1632–1704) arrived at the same conclusion, though from other premises. He wrote: "Whenever, therefore, any number of men so unite into one society as to quit every one his executive power of the law of Nature, and to resign it to the public, there and there only is a political or civil society."[6] Jean Jacques Rousseau (1712–1778) also taught that a convention, or contract, is the basis of government. The state, in his opinion, grows out of a primordial social contract, whose terms, however, "have perhaps never been formally set forth."[7] Accordingly, the bargain, or compact, between the people and their rulers is the foundation of the state. Civil society is thus an artificial arrangement, and a man regains his original rights and freedom by repudiating the social contract, and returning to his pre-political condition.[8]

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[4] *A Grammar of Politics*, p. 17.

[5] *Leviathan*, Chap. XIII.

[6] *Second Treatise of Civil Government*, Par. 89.

The theory just explained is known as the "social contract theory." It is quite generally discredited by political scientists today, chiefly because it has no foundation in history. There is no evidence to show that any state has originated in an agreement among men who were not already living under political authority of some kind. Moreover, insofar as present-day primitive peoples are concerned, it is well known that they do not indulge in constant warfare among themselves in the way that the social contract theory assumes; and hence there is no need of a social truce or contract to terminate warfare and struggle among them. Finally, as a working principle of government, the contract theory is highly unsound, as it would serve to unstabilize all civil institutions. If the inhabitants of a state are the original depositaries of political authority, then, little or no reason would be required to justify them in overthrowing an existing government.

B. Civil Society Necessary for Human Welfare.—The other explanation of the origin of the state argues that the state grows out of the needs and defects of human beings. If individuals and families could themselves provide for all their wants, they would not found a civil society and submit to restrictions on their individual and family rights. Human beings set up states because of their needs. Hence the state is something eminently natural. This answer agrees with past experience and present-day observation.

In his papers urging the acceptance of the Federal Constitution, Alexander Hamilton wrote in 1788: "But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary."[9] Again he asks: "Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without restraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons."[10]

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[7] *The Social Contract,* Chap. VI.

[8] *Ibid.,* Chap. VI.

[9] *The Federalist,* No. LI.

People establish governments, therefore, because of their dependence on one another, and because experience has taught them that there is need of an impartial authority to settle differences and disputes which necessarily arise among them. This is only the rational explanation of the origin of the state. Civil institutions assist the limited natural powers of human beings, and obtain for them benefits that they could not obtain through their efforts as isolated individuals. The reasonableness of this explanation is evident both from the universal prevalence of political institutions, and from an analysis of the peculiar powers and shortcomings of human nature.

C. Government Found Among All Peoples.—There is no section of the human race, civilized or uncivilized, that is not organized into some kind of political society. It is a mistake to think of savages as lawless, and without tribal regulations. Modern ethnology shows that all primitive peoples have some form of political organization, and that among many of them government is exceedingly intricate, and authority highly centralized. Thus among most of the peoples of Central Africa, the chief of the tribe wields almost despotic powers.[11] This condition stands in sharp contrast to the "councils" of the aboriginal Indians of North America, and their general preference for democratic government.[12] Of relevance here is the fact that both these peoples have clearly recognized forms of government. It is not necessary to review the available evidence covering the political agencies of the various primitive peoples. It will suffice to say that from what is known of contemporary primitive tribes, political institutions are found everywhere and among all peoples. The organization of any given people may be extremely crude, and held together solely by headmen who wield considerable personal authority.[13] But, this shows a distinct recognition of the need of government. All savage nations, without exception, have some form of political establishment to make, interpret, and execute their tribal laws or customs. It is scarcely necessary to add that political agencies, varying in form, exist among all civilized nations of the eastern and western hemispheres.

D. Government Based on Natural Attraction for Society.—If the inquiry is pushed further, and the reason is sought for the universal prevalence of political organization, the explanation will be found in human beings themselves. Human beings are drawn into companionship and association with one another by the force of a natural tendency. This tendency is called gregarious (Latin, *grex,* herd), because it urges men to band together. Although this tendency is not so strong as the primary instinct of self-preservation, nevertheless, it exerts an almost irresistible influence on all men. It may be regarded as an ally of the instinct of self-preservation, for one of the chief reasons why persons associate with others is the added strength and protection which they enjoy when leagued together. The increased strength growing out of association or mass action, may be observed in the various forms of organization ranging from boys' "gangs" to employers' associations, labor unions, and societies of professional men and women. A like tendency to associate lies behind the establishment of civil government. Locke recognized the importance of this tendency, though he falsely presupposed an antecedent state of savagery, necessitating a civil compact. He writes: "God, having made man such a creature that, in His own judgment, it was not good for him to be alone, put him under strong obligations of necessity, convenience, and inclination, to drive him into society, as well as fitted him with understanding and language to continue and enjoy it." [14]

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[10] *Ibid.*, No. XV.

[11] Lowie, *Primitive Society*, p. 369.

[12] Tozzer, *Social Origins*, p. 200.

[13] Lowie, *The Origin of the State*, pp. 6, 44.

It may be said, then, that man, in spite of his admirable qualities of mind and body, is unable, single-handed, to enjoy well-being and happiness. He craves the companionship of his fellow men, and feels new strength and satisfaction in living and working with them. Thus the nature of human beings impels them to form societies. For this reason, Aristotle calls man a "political animal." He points to the fact that man alone possesses the gift of articulate speech. The use of the voice to express pleasure or pain is shared by the brute creation, but man alone can express by words what is useful and what is harmful, and "of course what is just and what is unjust." [15]

From the foregoing it may be deduced that the organization of the state has its foundation in the needs of human beings. Assuming man's creation by God, and taking man as he is found, it follows also that civil society has been established indirectly by God. Because He created man and placed in him the need, capacity, and inclination to enter into orderly relations with his fellow beings, God is the author of the civil organization called the state. Accordingly, Christian doctrine teaches that God is the author of the state, because He is the Creator of human beings. Knowing their needs and wants and the best means of providing for them, He placed in them the impulse to form political commonwealths. The teaching that the ultimate origin of the state is in God Himself, is not essentially different from the teaching that the ultimate origin of the family is in God. Both the state and the family are of divine institution, because both take their origin from human nature, which is a creature of God.[16]

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[14] *Second Treatise of Civil Government,* Par. 77.

[15] *Politics,* Book I, Chap. II.

III. THE MODERN NATIONAL STATE

The popular idea of a state is, as a rule, restricted to the modern national state. The average person thinks of a state in the sense that America, England, France, and Germany are states. As he conceives it, a state is an extensive territory, inhabited by a large population, and ruled by a government located in a capital city. But the modern national state is merely one type of statehood. In order to have a proper historical perspective, it must be remembered that the state of today is a distinctly modern development. It is the product of numerous forces which began to operate in the sixteenth century.

During the Middle Ages there was no single civil power recognized as supreme over any large geographical division or country. On the European continent, authority was divided between the Pope as spiritual ruler and the Emperor as civil ruler. Civil power was again shared by the barons and the free cities on the one side, and the Emperor on the other. The struggle for political supremacy between the princes and the kings raged for nearly 300 years, with the result that there was no centralized government, vested in a powerful king, until the sixteenth or seventeenth century. About this time, inventions and discoveries began to create a demand for a strong centralized power.[17] The invention and quite general use of gunpowder in the fifteenth century had stripped the feudal knights and armed archers of their power, and had rendered the baronial castle all but useless against attack. As a result, feudalism decayed, and with it the power of the princes. Moreover, new trade routes had been opened up by the geographical discoveries of the late fifteenth and early sixteenth centuries. Trade grew between the mother-countries and there arose an urgent need of standing armies to protect national boundaries. Large sums of money were required to support these armies, and the system of credit came into general use. The financing of armies created the need of a national treasury, and along with this, the need of national authority. Then, as national authority in each country became more centralized, it gradually absorbed the powers of the scattered princes, who ultimately disappeared as important units of government.

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[16] Antoine, *Cours d'Economic Sociale*, 6^{me} ed., p. 97.
[17] Wilson, *The State*, pp. 39, 115.

With the growth of the power of national governments in the sixteenth and seventeenth centuries, the various countries aimed to promote industry at home, and to build up foreign trade. Tariffs were levied on imports, and bounties paid to those who exported goods. This general movement was known as Mercantilism. The natural consequence of the Mercantilist policy was an intensification of the national spirit and a strengthening of the national government. The final impetus to centralized national government came from the revolutionary inventions of the eighteenth century, particularly that of steam-driven machinery. The nations, with Great Britain in the lead, began to develop their manufacturing industries, and foreign markets for their surplus products. Colonization, foreign investment, navies and larger armies followed in quick succession, all of which required strong centralized governments at home. These are some of the more important factors that have contributed to the building up of the modern national state.

A. Modern State Best Suited to Modern Needs.—The state as it exists in the twentieth century is of comparatively recent origin. Of special interest here is the fact that the modern state, as well as its earlier counterpart, whether the city-state of the Greeks or the feudal state of medieval Europe, has the same basis in human needs. There is nothing inherently sacred about any particular form of government. That government is best for a people which best promotes its welfare. The modern national state with its highly centralized authority finds justification in the fact that it is apparently the best means of supplementing individual activity and protecting the interests of its citizens. If existing methods of industry and commerce were less centralized, most probably a less centralized form of government would better serve the public welfare.

To repeat: Every government, whatever its form, is to be regarded as an agency to supplement the efforts of its citizens, to aid them in securing temporal well-being, and to protect them in its enjoyment. If a government attempts to do more than supplement or assist, and assumes to do for its citizens what they themselves could do better, it becomes paternalistic and stifles natural initiative, the life-blood of national welfare. If a government does less than supplement or assist, and shows itself indifferent to injustice or oppression, it opens the door to anarchy and its own destruction.

IV. THE CONCEPT OF AUTHORITY

A. Authority Defined.—Authority may be defined as the right to direct the actions of the individuals of a group, in order to attain the objects for which the group was formed.[18] This definition is applicable to every organized body, whether a debating society, fraternal organization, banking corporation, neighborhood association, or national state. The powers of the officers of an association over its members are not absolute. They are restricted to the acts which are necessary to secure the ends for which the members are organized. These powers are usually defined in the constitution of the association, immediately after the declaration of purposes. In every organized group, the authority exercised by those in office connotes the moral obligation of the members to comply with the directions marked out for them. Thus, authority implies both the right to direct and the duty to conform.

B. Authority a Moral Power.—A moment's reflection will show that authority is essentially a moral power. In the last analysis, it means exerting the pressure of one will on another. True, this pressure is not absolute and arbitrary. It is limited in scope and extent by the objects for which the members of the society have organized. This concept of authority helps to define the rights of the governed, and refutes certain false notions regarding the prerogatives of those who hold office. Although the love of power for power's sake may inspire some individuals to seek positions of authority, those who possess genuine leadership subordinate this unworthy motive to the higher one of group service. If this concept of leadership is accepted, the theory that the state exercises authority merely for authority's sake falls to the ground. A state, presided over by the proper kind of officials, does not place unnatural or unreasonable restraints on its citizens, nor does the law-abiding citizen regard the state as a burdensome necessity.

The functioning of authority in voluntary groups such as debating societies, alumni associations, legal and medical fraternities, and industrial corporations, is practically the same as it is in the larger society known as the state. But the source of authority in a state is necessarily different from that in voluntary groups. In a large corporation, for example, with thousands of stockholders, the individuals usually cede certain of their rights to the board of directors. The stockholders themselves are the ultimate source of the powers exercised by the board. They enter the organization in order to obtain the benefits of unified action, and submit willingly to the restrictions placed on their freedom. Thus the authority of the board originates in a free act of the stockholders. In other words, the stockholders are the primary and immediate source of authority. This is not the case with the authority of a state, for a state is not created by a free act of its citizens. It is something that grows out of their nature from a necessity placed in them by Almighty God. The authority of a state, therefore, issues from the governed, but it does not issue from them as from its primary source. It proceeds originally from God, who transmits His authority to civil governments through the medium of their citizens.

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[18] Castelein, *Droit Naturel*, p. 526.

C. Civil Authority a Human Need.—Cardinal Bellarmine (1542–1621) uses a syllogism to prove that civil society must possess authority, and that the need of authority is dictated by human nature and willed by God. His argument runs as follows. Major premise: Man is born for life in society. Minor premise: But life in society requires authority. Conclusion: Therefore, man is born with the need of authority.

He proves the major by pointing out that man is social by nature, whereas animals are not. Animals are born clothed, and armed for self-defense. They need no teacher to show them how to build their nests, procure food, or medicine. But man is born naked. Though equipped with hands and feet, and possessing reason in a dormant state, he is unable for several years to employ them for any useful purpose. He has a natural capacity for the arts and sciences, but he cannot master them without the assistance of others. Hence, man is born for life in society. The minor is proved as follows. Society is unthinkable without a governing principle of authority. A multitude cannot live together in peace and with mutual benefit, unless there is a power to maintain order among them, and cause them to work for the common good. This power is like the soul, which is the unifying principle of order in the body. When, at death, the soul leaves the body, unity is dissolved, and the bodily members fall into decay. During life they are held together and prevented from interfering with one another by the soul, which establishes harmony between the "opposing elements" (*elementa contraria*). In a similar way, society needs a unifying and guiding power. This power is authority. It follows, therefore, that the need of authority is rooted in human nature. It is scarcely necessary to add that since God is the Author of nature, He is also the Author of authority.[19]

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[19] II *Controversia Generalis*, Lib. III, Cap. v.

D. Civil Authority is from God.—In the Christian philosophy of society, God is the origin of civil authority. "There is no power but from God."[20] It is to be observed that this is not only a teaching of revelation, but also a dictate of reason. There can be no rational justification for the exercise of civil authority, unless it is admitted that authority comes from God. This statement should be examined somewhat more closely. The question may be asked: "What right have governmental officials to compel others to obey them?" If the divine source of authority is denied, this question must be answered by saying that public officials are pure usurpers, who have no right to require others to do their will. A president, king, legislator, judge, or sheriff is, after all, merely a human being like his fellow men. Of himself, he has no right to oblige others to do things, which they most likely prefer not to do. All human beings are essentially equal. Each has the same intrinsic worth and importance as every other. Hence a public official in his personal capacity, has no right to bind the wills of his fellow men. The right to do so, he derives from God. It is His will that public order be preserved through the instrumentality of public officials. Hence He clothes them with authority. If the divine origin of civil authority is denied, there is no satisfactory answer to the question: "What right have public officials to be obeyed?" On the other hand, there is an adequate answer in the teaching that God is the origin of civil authority.[21]

But, it may be objected, the right to rule does not need a divine basis or sanction; it is sufficiently grounded in the superior mental endowments of leadership, tact, birth, or wealth, possessed by those in power. The answer to this objection is that these qualities are accidental, relative, and changeable, and do not provide a firm and adequate basis for society. Society rests on a juridical order, consisting of unquestioned rights to legislate and equally unquestioned duties to obey. Taking human nature as it is, it is clear that the multitude will not obey laws that have no other sanction than a leader's claim to wealth, birth, or superior qualities of intellect. Moreover, a leader may sometimes lack one or all of these qualities, in which event a government would be without a firm foundation, and might even collapse. Keeping in mind, therefore, the essential equality of all men, and the need of a stable basis for order in society, the conclusion is inevitable that civil authority is derived ultimately from God. God has placed the need of society in man's nature, and has endowed society with the authority necessary to guarantee order and temporal happiness. This conclusion is valid, regardless of the form of government that a people may choose to set up, be it democracy, aristocracy, or monarchy. Authority, therefore is vested in the persons who hold office, and they exercise authority by virtue of the grant which they have received from God through the people.[22]

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[20] *Romans* XIII. i.

[21] Bellarmine, *op. cit.*, Lib. III, Cap. vi.

E. Divine Origin of Authority, Two Meanings.—The doctrine of the divine origin of authority has been the occasion of considerable misunderstanding. This is due to the varied interpretations placed on the expressions, "the divine origin of authority," and "the divine right of kings." All misunderstanding can be removed by remembering that these expressions are open to two very different meanings. The first is that the political authority possessed by a king, president, or parliament emanates from God, and passes through the people to their ruler, whether monarch or president. As stated above, this is not only the teaching of Catholic theologians but is also a conclusion of reason. All men are essentially equal in their nature as human beings. Consequently, if the divine origin of authority is denied, there is no reason why one person should compel another to do his will. Whereas, if the divine origin is admitted, there is adequate justification for rulers and public officials to exercise power. This justification is the maintenance of a divinely willed social order. God has fashioned man to live in organized society, and has therefore invested society with the means of safeguarding human rights and promoting welfare. Thus, the first meaning of the "divine origin of authority" or the "divine right of kings" is that civil authority, whether monarchial, democratic, or aristocratic, is ultimately derived from the Author of man and society. This is the only reasonable meaning that can be attached to the doctrine that civil authority has its origin in the Supreme Being.

The second interpretation of the phrases, "divine origin of authority" and "divine right of kings," differs wholly from the first, and constitutes an utterly false and pernicious doctrine. According to this interpretation, God confers authority on a ruler directly and immediately, without transmitting it through the people. The ruler is consequently, not a human, but a divine choice; and he is responsible to no one but God. This is the iniquitous doctrine of the "divine right of kings" which was propounded in the sixteenth and seventeenth centuries. Quite clearly, it opens the door to absolutism and tyranny, and cuts an oppressed people off from all right of appeal. Moreover, it can be used to justify the action of a "divine right" king in subjugating any weak foreign nation and holding it in subjection.[23] Manifestly, in this sense the "divine right of kings" theory has no basis in reason. It need hardly be added that this interpretation of divine authority has no foundation in Revelation. It is a product of post-Reformation days and was evolved by the German princes in the time of Louis of Bavaria. It found its chief supporter in James I of England (1603–1625).[24] The Jesuit writers, Bellarmine (1542–1621) and Suarez (1548–1617), had written extensively to prove that sovereignty was derived from the people, who in turn received it from their Creator. In refuting James's pretensions, Suarez declared that the doctrine that political authority has its mediate origin in the governed, was the "ancient, commonly accepted, and true teaching." [25] James, however, ordered the books of Suarez and Bellarmine burned.[26] At the present time, the "divine right of kings" theory is quite generally discredited.

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[22] Suarez, *Theologiae Summa*, I, Tom. V, Lib. III, Capp. i, ii, iii, iv, ix; Bellarmine, *loc. cit.*

F. Law, Definition and Explanation.—Civil authority is exercised in the enactment, interpretation, and enforcement of laws. Laws may be regarded, therefore, as the established standards according to which citizens must shape their conduct. A law is an ordinance of reason enacted for the common good by the person or persons who have authoritative charge of the community, and promulgated by them.[27] This definition contains the four essential elements of every law. (*a*) A law is a dictate of reason: It declares that certain means must be used to obtain a definite end. If it lacks a basis in reason, it is a purely arbitrary act. It defeats its own purpose, as it is certain to be disobeyed. Moreover, it invites lawlessness and contempt for established order.[28] Primarily, therefore, a law must be reasonable. (*b*) A law must promote the general welfare. An unjust law fails in this respect, as it promotes the interests of only a small minority. Clearly, a policy of this kind cannot be pursued by a government for any great length of time. In a republic, it will be corrected by the votes of the majority, who will elect such representatives as will defeat the obnoxious legislation. In an absolute monarchy, it will be corrected, if necessary, by the forcible overthrow of the government. (*c*) A law must be enacted by those vested with authority. This requirement flows from the purpose of government, which is the common welfare. The welfare of the whole community cannot be secured if laws are enacted by others than impartial and properly authorized law-makers. This conclusion finds special application in a democratic government. If undue pressure, in the form of lobbying, is exerted on popularly elected legislators, naturally the laws passed by them will work to the advantage of those who instigated the laws. Laws thus enacted will work an injustice on the majority temporarily, but their effect will ultimately be nullified, for in a democratic government such laws will be repealed by representatives pledged to carry out the will of the majority. (*d*) A law must be promulgated. This means that the law must be published, or made known to the citizens of the state. This follows from the fact that a person cannot morally be held to a duty of which he is ignorant.[29]

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[23] Ryan, *Catholic Doctrine on the Right of Self-Government*, Pamphlet.

[24] Sortais, *Traité de Philosophie*, Tom. II, p. 230; Leacock, *The Elements of Political Science*, p. 32.

[25] Ryan, *op. cit.*, p. 5.

[26] Sortais, *ibid.*

[27] St. Thomas, 1–2ae, Q. 90, A. 4.

[28] *Ibid.*, 1–2ae, Q. 90, A. 1.

G. Binding Force of Civil Laws.—A law which satisfies the four requirements just enumerated, is binding on all the citizens of a state. But is the citizen's duty to obey restricted to the mere obligation of submitting to imprisonment or the imposition of a fine, in case he is found guilty of violating the law? Or is his obligation of a more serious nature? Does it rest on his conscience, and bind him morally? Does he incur guilt before God when he breaks a civil law? The answer to these questions is that, as a rule, the laws of a country bind in conscience before God, that is, the obligation is not limited to paying a fine or going to prison after an offense has been proved. Even so-called penal laws impose a moral obligation, inasmuch as a person found guilty of breaking a penal law, is bound in conscience to submit to the penalty imposed. Civil laws bind in conscience, because God wills men to live in an orderly society, and this purpose can be realized only on the supposition that the legal enactments of legislators impose a moral obligation.

Suarez, the highest authority on laws among the theologians, uses the following arguments to prove that civil laws bind in conscience. First, the civil legislature enacts laws by virtue of the authority which it receives from God, and hence a violation of its laws is an offense against God. Secondly, law, both divine and natural, demands that the just ordinances of authorized legislators be observed. Therefore, the person who disobeys them rebels against the will of God. Finally, governments cannot be maintained unless civil legislators possess the power of binding in conscience.[30] This is evident from the fact that if the state possesses only physical means of restraint, it is unable to prevent a multitude of serious crimes, such as unethical surgical operations and fraudulent, though legal, contracts; and as a consequence, its own existence is imperiled. It may be added that for the enforcement of its laws, every modern state depends much more on its appeal to the consciences of its subjects than on threats of fines, imprisonment, or capital punishment.

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[29] Valensin, *Traité de Droit Naturel*, Vol. I, p. 183.

[30] Suarez, *op. cit.*, Tom. V, Lib. III, Cap. xxi; see also Bellarmine, *op. cit.*, Lib. III, Cap. xi; Ryan and Millar, *The State and the Church*, pp. 244–259.

The moral obligation of obeying civil laws is necessary for the stability of a government. True, the moral obligation of all laws is not the same. The guilt incurred by violating some is greater than that incurred by violating others. For example, the person who peddles notions from house to house without a license contracts less moral guilt than the one who enters a house for the purpose of robbing or even killing the occupants. The degree of guilt will be in proportion to the gravity of the punishment prescribed by the law itself.

Having considered the origin of civil society and of political authority, it is necessary to examine the question of the purposes for which authority is exercised. These will be treated in the following chapter.

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QUESTIONS FOR REVIEW

1. Define the term *state;* explain the requirements which go to make up a state. Define Government.
2. Is it always easy to drawn a sharp line of demarcation between the jurisdiction of the State and that of the Church? Do their fields of action ever overlap?
3. What are the various theories of the origin of the state?
4. What did the following philosophers contribute to the idea of the state: Hobbes, Locke, Rousseau?
5. What is the accepted idea of today of the reason for establishing the state?
6. What proofs exist for the antiquity of government?
7. Is there any people without some form of government?
8. How did modern national states arise?
9. Define authority in the state.
10. Show how authority is moral in nature.
11. Does the authority of the state conflict with true liberty?
12. Compare the authority of the state with that of voluntary groups.
13. What was the theory of Cardinal Bellarmine with respect to civil authority?
14. Explain the statement that civil authority is from God.
15. Compare the phrases, "Divine origin of civil authority" and "Divine right of kings."
16. Does the principle of the "Divine origin of civil authority" make a government infallible?
17. Would a revolution against an established government ever be justified? If so, under what conditions?

18. Define law: Give the four essential elements of a law.

19. What is the meaning of the statement that law must promote the general welfare?

20. What is the extent of the binding character of a civil law? Give Suarez' view thereon. Look up a biographical sketch of Suarez.

21. Why is the moral obligation to obey laws necessary for the stability of government?

CHAPTER X

THE FUNCTIONS OF THE STATE

I. ARISTOTLE ON THE STATE

II. THE PROTECTIVE FUNCTIONS OF THE STATE

A. The Rights Protected by the State—B. How the State Protects Rights

III. THE PROMOTIVE FUNCTIONS OF THE STATE

A. Welfare Functions of the State—B. Welfare Defined

IV. THE TWO SCHOOLS: INDIVIDUALISM AND SOCIALISM

A. The School of Individualism—B. Criticism of Individualism—C. The Socialist School—D. Criticism of Socialism

V. LIMITED STATE INTERVENTION

I. ARISTOTLE ON THE STATE

A great deal depends on the answer to the question: What is a state for? Is it set up solely to protect rights; or is it set up to protect rights, and, in addition, to enable people to satisfy their basic human needs? Aristotle favors the latter view as the true purpose of the state. He says:

> Nor was civil society founded merely to preserve the lives of its members; but that they might live well: for otherwise a state might be composed of slaves, or the animal creation: but this is not so; for these have no share in the happiness of it; nor do they live after their own choice; nor is it an alliance mutually to defend each other from injuries, or for a commercial intercourse. [He concludes:] So that the end then for which a city is established is, that the inhabitants of it may live happy. . . . It is not therefore founded for the purpose of men's merely living together but for their living as men ought.[1]

These statements set forth the two distinct purposes for which a state exists: first, to protect; and secondly, to assist. Both functions are necessary governmental activities. They correspond to the two primary needs in men which impel them to set up a government: namely, safety and progress. The functions of a state, therefore, are protective and promotive. Hence, it will be necessary to consider first, the protective, and secondly, the promotive functions of a state.

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[1] *Politics*, Book III, Chap. IX.

II. THE PROTECTIVE FUNCTIONS OF THE STATE

The foremost duty of the state is to see that its citizens are not molested or interfered with in the exercise of their legitimate rights. A right is a moral power: to do certain things; to require others to do them; or to require others to refrain from doing them. The more elementary rights of a citizen include: immunity from personal violence, both for himself and the members of his family; freedom to admit outsiders into his home or to exclude them; and the ownership and disposition of his property. These and a score of other rights are protected by the laws of the state, sanctioned by its courts, and enforced by its police system. In a word, the state acts as the guardian of justice: it sees that every citizen is given "his due" or "what is his own."

The late President Wilson termed the protective functions of the state its "constituent" functions, as distinct from its "ministrant" or promotive functions. The constituent functions, he says, are not optional with governments; they "are indeed the very bonds of society." They include the following: (1) The keeping of order and providing for the protection of persons and property from violence and robbery. (2) The fixing of the legal relations between man and wife and between parents and children. (3) The regulation of the holding, transmission, and interchange of property, and the determination of its liabilities for debt or for crime. (4) The determination of contract rights between individuals. (5) The definition and punishment of crime. (6) The administration of justice in civil causes. (7) The determination of the political duties, privileges, and relations of citizens. (8) Dealings of the state with foreign powers: the preservation of the state from external danger, and the advancement of its international interests.[2]

A. The Rights Protected by the State.—The principal rights which every one may reasonably expect the state to guarantee are of two main kinds: First, those which might be violated by other nations; and secondly, those which might be violated within the confines of his own country. Those of the first class require no extended discussion here. They are safeguarded by every government through embassies, diplomatic corps, armies and navies. Those of the second class deserve more attention. They comprise two principal subdivisions, according as they affect either the physical person of the citizen or his moral and spiritual well-being.

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[2] *The State*, rev. ed., p. 42.

The rights affecting an individual's physical person may be jeopardized or violated either by the deliberate acts of other individuals or by purely inanimate agencies. Thus, a citizen unquestionably has the right to be protected against criminals in his home or on the streets, or against unusual dangers to life and limb, arising, for example, from reckless automobile driving. It goes without saying that the state has the duty to protect him against such possible violations of his person. But physical dangers may arise also from non-human agencies. Against these, too, the state must protect the person of the citizen. To guard him from contaminated or adulterated foods, there are pure-food laws; to prevent the outbreak or the spread of an epidemic, due to a polluted water supply or the improper disposal of refuse, health, water and sewerage departments are established.

The second group of rights which the state must protect are moral, and, in some cases, spiritual in character. This group embraces all those rights which do not pertain directly to physical security and health. They range from the right to own property to the right of freedom of worship. Hence the state protects not only titles to land or movable goods, based on sale, gift, or bequest, but also rights to such intangible goods as immunity from fraudulent or extortionate contracts. Likewise, it protects the right of parents to the management of their homes and the guidance of their children—a right immeasurably more sacred than that of property.

The state's duty to protect rights to moral goods is manifested in various ways. For example, the individual has a right to be free from public incitements to immorality, such as indecent theatrical productions, immoral printed matter and posters, and solicitation on the street. The public authorities must safeguard these immunities on the grounds that the sacredness and stability of the home must be preserved. The right to be free from unusual inducements to vice is recognized especially in the case of children. The various State laws empower juvenile court officials to remove children from their homes, when it can be shown that either a parent or an older brother or sister is grossly immoral. Finally, the citizen has a right to freedom of conscience in the matter of religious worship. In the United States the Federal Constitution safeguards this right by forbidding the establishment of a state religion.

The rights just enumerated are such as flow from the person of the individual citizen. Hence they are called personal rights. But rights are possessed also by private, voluntary groups. These are called corporate rights. Thus each family possesses certain rights as a family. The same is true of business corporations, labor unions, colleges, medical societies, and similar organizations. Such associations have a social justification for existence, and it is the duty of the state to safeguard them in their legitimate aims.

B. How the State Protects Rights.—There are three principal ways in which the state protects citizens and associations of citizens:

1. The state defines the rights of each individual as against all others, and the rights of each individual as against groups. Rights, as such, are frequently vague, and stand in need of concrete definition. Unless they are described and, in some instances, limited by law, they can easily be used by the strong to oppress the weak. Hence a constitution not only enumerates the fundamental rights of its citizens, but also specifies how far the individual may go in exercising his rights. Such definition and limitation are necessary in order to prevent a small minority from depriving a large majority of their freedom of action. One example will suffice. The unrestricted right to own and to bequeath all the wealth that one receives in the form of income would lead to undesirable social consequences. Unless this right is curbed, it is possible that in the course of time, virtually all the wealth of the nation would be centralized in the hands of five or ten persons. In order to render this impossible, or, better, in order to enable *all* to exercise their abstract right to own property, the Federal Constitution gives Congress the power to tax incomes in proportion to their size. In like manner, the right of inheritance, if allowed to operate without checks or controls, would lead to grave social dangers. Large fortunes would tend to accumulate in a few powerful families, to the prejudice of the rest of the population. Hence, by graduating the rates of taxation according to the size of estates, the state limits or restricts the right of inheritance.

2. The state guarantees individuals and associations the freedom to exercise their lawful rights. This means that the state not only recognizes the existence of lawful rights, but in addition removes the obstacles which interfere with their proper exercise. In the case of individuals, this applies particularly to those who are unable to secure redress for their wrongs, either because of age, inability to employ legal counsel, or lack of organization. Thus minor children have the claim to a normal home life, and to freedom from the depraving influence of drunken or immoral parents. Similarly, women workers have the right to be exempted from exploitation resulting from competition with one another in industry, and hence they may properly expect state protection in the

form of maximum-hour and minimum-wage laws. Generally speaking, the state must protect all the weaker groups in society whose personal or property rights are exposed to violation from whatsoever source.

3. The state puts an end to disputes. This action is essentially protective. If there were no tribunal with power to force both parties to accept its decisions, disputes would go on indefinitely, and multiply constantly. Hence every state maintains a system of courts, usually arranged in an ascending order of authority, the highest of which is final in its rulings. Moreover, the rule of precedents, followed by all courts, is a powerful factor in the protection of rights. Those who otherwise might be disposed to take advantage of the weak, are deterred by the certain knowledge that the courts will decide against them and order imprisonment or the payment of financial damages. Finally, the state has the duty to define the respective rights of labor and capital, and prevent so far as possible, clashes between wage-earners and employers. This can be done by setting up legal machinery for the adjustment of industrial disputes. A start in this direction has already been made through the establishment of boards of conciliation and arbitration, both Federal and State.

III. THE PROMOTIVE FUNCTIONS OF THE STATE

The second major function of the state is to promote welfare. To promote means to move a thing forward, to advance, or further it. Promoting welfare means advancing the moral and material status of the entire people. This function of the state is positive and constructive, whereas the protective function is negative and repressive. The promotion of welfare corresponds to a basic need in human beings, who naturally strive to advance materially and morally, or, in everyday language, strive to "get ahead." It is this striving that one has in mind when one speaks of the need of progress in civilization.

A. Welfare Functions of the State.—Woodrow Wilson designates the promotive functions the "ministrant" functions of the state, and under this heading he places the following activities: (1) The regulation of trade and industry, e. g., the coinage of money and the establishment of standard weights and measures, laws against forestalling and engrossing, the licensing of trades, as well as the momentous matter of tariffs, navigation laws and the like. (2) The regulation of labor. (3) The maintenance of thoroughfares,—including state management of railways and that imposing group of undertakings which are included in the comprehensive term "Internal Improvements." (4) The maintenance of postal and telegraph systems, which is very similar in principle to (3). (5) The manufacture and distribution of gas, the maintenance of waterworks, etc. (6) Sanitation, including the regulation of trades for sanitary purposes. (7) Education. (8) Care of the poor and incapable. (9) Care and cultivation of forests, and the stocking of rivers with fish. (10) Sumptuary enactments, such as "prohibition" laws.[3]

The welfare function of the state cannot be described accurately and in detail, because, in the first place, it often dovetails with the function of protecting rights; and secondly, because the term "welfare" itself has numerous implications. To illustrate, when a governmental commission regulates street car fares, in reality it is protecting passengers from the possible unjust exactions on the part of a public service monopoly, and yet by this act it promotes the public interest. Public welfare implies freedom for all citizens from harsh or unjust necessity. Without this freedom the weak would be deprived of the opportunity for normal development. Lacordaire says tersely: "Between the strong and the weak it is liberty that enslaves, and the law that liberates."

Freedom of opportunity for all is an essential element in social wellbeing. Any definition of public welfare must make it clear that opportunity is universal. Otherwise welfare would not be "public" or "common." Equality of opportunity is denied implicitly by those who hold that the highest good of the state is identical with the good of the greatest number. The essential defect of this theory is that it is satisfied with the welfare of the "greatest number." Welfare, to be public, must be accessible to all.[4] Aristotle insists that "supreme power must necessarily be in the hands of one person, or a few, or many; and when either of these apply their power for the common good, such states are well governed; but when the interest of the one, the few, or the many who enjoy this power is alone consulted, then ill; for you must either affirm that those who make up the community are not citizens, or else let these share in the advantages of government."[5]

In order to secure public welfare it is not necessary for a state to provide its citizens with the requisites of life. Indeed this would be impossible. But the state must bring about such a condition of affairs that all its citizens will have an equal opportunity to provide for their personal and family needs; otherwise welfare, in its proper sense, is an empty phrase. Professor Hobhouse states this thought clearly when he writes:

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[3] *Op. cit.*, p. 43.

[4] Antoine, *Cours d'Économic Sociale*, 6 me ed., p. 44.

[5] *Politics*, Book III, Chap. vii.

> We said above that it was the function of the State to secure the conditions upon which mind and character may develop themselves. Similarly we may say now that the function of the State is to secure conditions upon which its citizens are able to win by their own efforts all that is necessary to a full civic efficiency. It is not for the State to feed, house, or clothe them. It is for the State to take care that the economic conditions are such that the normal man who is not defective in mind or body or will can by useful labor feed, house, and clothe himself and his family.[6]

B. Welfare Defined.—Public welfare may be defined as the aggregate of those conditions which must exist so that all the members of the state can provide for their physical and moral needs.[7] To work toward the actualization of all these conditions is the promotive function of the state.

The conditions which must be present in order that a citizen may be free and self-active include those pertaining (1) to his physical and (2) to his intellectual and moral development. This twofold growth is essential for welfare, as it is dictated by the primary needs of human beings. An enumeration of these needs will indicate what a minimum of public welfare requires.

1. The primary physical needs that must be satisfied in order to secure public welfare are: (*a*) Life.—Obviously, this is the most urgent of all human needs. Hence welfare assumes that, at least, the right to life and personal integrity is safeguarded. (*b*) Health.—This is intimately related to the need of life, or perhaps is only a phase of it. The maintenance of health requires the possession and use of the means of preserving it, viz., food, shelter, clothing, tools, weapons, transportation, and communication. Under this heading are to be included also the needs of work and of play. (*c*) Home Life.—The family is necessary to safeguard life, at least in childhood. It is necessary also for the preservation of society, because family organization is the only genuine guarantee of a sufficiently large social product of economic goods, and the only means of developing the social and civic virtues. (*d*) Property.—The ultimate basis of this need is the necessity of storing goods for use through seasons of either extreme cold or heat, and in sickness and old age.

2. The primary non-physical needs of public welfare are: (*a*) Truth.—Society rests on faith: that is, every man must be able to trust his fellow man. The more prominent social institutions resting on faith are the family, based on the reciprocal faith of husband and wife; business and industry, established on a system of credit; and the courts, founded on confidence in the fairness of judges and juries. Obviously, trustfulness

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[6] *Liberalism*, p. 158.

[7] Cathrein, *Moralphilosophie*, Vol. II, 5th ed., p. 531.

as a factor in human society would disappear if truth and honesty were to be seriously violated in any phase or concern of life. Hence the need of truth and honesty. (*b*) Good Name and Social Approval.—The gratification of this need is a powerful aid in satisfying other needs, especially that of family life. (*c*) Liberty.—This need appears most clearly from a consideration of the results that follow when it is ignored. Welfare is impossible in a country where the people are oppressed, as in Cuba before 1898, or in Ireland and Poland prior to the World War. (*d*) Government.—This need varies in intensity with the size of population. Among small tribes of savage nomads, consisting of only two or three hundred persons, a simple form of family government is sufficient. But in large nations of fifty or one hundred millions there is need of a coördinated governing body to protect liberties and perform public works for the benefit of all. (*e*) Mental Development.—In individuals, this need manifests itself in its simplest form in curiosity, and the desire to know the causes of things. In society, it manifests itself in the building of schools, libraries, and colleges. (*f*) The Arts.—This need reveals itself in the aesthetic impulses. In children, it is exhibited in drawing, playing "house" or "Wild West"; and in telling and hearing fantastic stories. In adults, it reveals itself in the drama, music, architecture, painting, and literature. Primitive peoples also express their aesthetic needs, for example, by painting, basket-weaving, and working metals. (*g*) Self-Assertion.—This need craves satisfaction in self-sovereignty and social approval. It finds expression in the best sense in the desire to be the "captain" of one's own soul. (*h*) Religion.—This need is the most fundamental of all. In its absence none of the other needs, physical or non-physical, can be met or satisfied in society.

A minimum of welfare prevails in a community when all persons enjoy the opportunity to satisfy the foregoing needs. In proportion as a state sees that all its citizens have access either to this minimum, or to more, it promotes public welfare. All governments make some effort to further the public interest. Even among savage peoples the chiefs assume the work of directing the common activities of the tribe in hunting, fishing, and irrigation, in order to promote the welfare of all the tribesmen.

The governments of early historical times uniformly shouldered the task of advancing social well-being. The Egyptian Ptolemies installed filtration plants along the Nile; the Roman emperors built roads, aqueducts, and public baths, and dug drainage canals. In modern times, governments have manifested a still greater interest in public welfare. The United States government will serve as an example. The preamble of the

Federal Constitution adopted in 1789, enumerates two sets of needs to be satisfied; the first of a temporary, the second of a permanent, character. The urgent needs of 1789 were "to form a more perfect Union, establish Justice, insure domestic Tranquillity," and "provide for the common defence." The permanent needs for all time were to "promote the General Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." Incidentally, with the growing urbanization of the population since the middle of the nineteenth century, the Federal Congress and the State legislatures have been increasingly obliged to invoke the "General Welfare" clause of the Constitution as their authority for undertaking purely welfare activities.

Since their creation most of the ten Departments of the Federal Government have been given new functions each succeeding year, so that now they are primarily public welfare agencies. The activities of the Post Office Department and the Department of the Treasury are obviously those of a welfare nature, serving, as they do, the common interests of the entire public. The welfare activities of the other Departments are even more apparent. For example, the Department of the Interior has among its duties the "investigation, construction, and management of irrigation developments in the arid States." The Department of Agriculture, through its Bureau of Animal Industry, seeks to control and eradicate the diseases of animals, examines and quarantines live stock, and inspects meat and meat food products. The Bureau of Chemistry and Soils in the same Department studies the texture of soils, drainage conditions, and fertilizers. Again, the Department of Commerce "is charged with the work of promoting the commerce of the United States and its mining, manufacturing, shipping, fishery, and transportation interests." The Bureau of Fisheries of the same Department studies the "propagation and salvaging of useful food fishes" and the causes of the decrease of food fishes in the lakes, rivers, and coast waters of the United States. Finally, the Department of Labor "is charged with the duty of fostering, promoting, and developing the welfare of the wage earners of the United States, improving their working conditions, and advancing their opportunities for profitable employment." This Department is divided into several bureaus. One of these, the Children's Bureau, is concerned with "all matters pertaining to the welfare of children," particularly with the questions of infant mortality, child delinquency, the employment, diseases, and dangerous occupations of children; another, the Women's Bureau, is charged with the duty of formulating "standards and policies to promote the welfare of wage earning women, to improve their working conditions, increase their efficiency, and advance their opportunity for profitable employment.''[8] It should be added that most of the States maintain welfare departments whose activities closely parallel those of the Departments conducted by the Federal Government.

IV. THE TWO SCHOOLS: INDIVIDUALISM AND SOCIALISM

There are two distinct schools of social thought, widely differing from each other regarding the duties of the state toward its subjects: the individualist and the socialist. These schools accord completely as to purposes, inasmuch as both insist that the state must promote the welfare of its citizens. But they differ radically as to the means by which welfare is to be secured.[9] Something will now be said of the philosophy of each school.

A. The School of Individualism.—The individualist holds that welfare can be secured best by allowing every person the widest scope of liberty consistent with the liberty and safety of others. The slogan of individualism is: *laissez-faire,* let things take their course. In other words, the state should keep its activities within the narrowest possible limits: It is to be no more than a police power and a judge. The state performs its rightful functions in requiring that all contracts legally entered into be executed, and in protecting the freedom of individuals. But there its activity should end. It is not to concern itself with welfare work or social laws on behalf of the weaker classes.

The individualist argues that the prosperity of all is promoted best by allowing each person in the community the widest measure of freedom in working out his own interests. By checking or regulating private incentive, the state stands in the way of its own advancement, because it thereby stifles self-interest, the strongest motive to work and to serve. What is of vital importance, says the individualist, is that a person striving and sacrificing for himself, at the same time, unconsciously perhaps, strives and sacrifices for the community. Thus, a man who organizes a corporation to manufacture furnaces, though inspired by the self-seeking motive of financial profit, serves the community none the less, by providing for its comfort in cold weather. It is detrimental to the public interest, therefore, to put legal restraints on this man through corporation-tax laws or minimum-wage legislation. In reality, such laws only hinder him from doing his best to serve the public interest. It is no different with regard to the people who work in his shop. They must be allowed to compete with one another for wages and working conditions, because by bidding against one another they do their utmost for themselves, and thereby contribute to the welfare of all. Hence in the opinion of the individualist, a state acts unwisely when it enacts minimum-wage legislation, or other social laws which check competition among workers.

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[8] 71st Congress, 2d Session, *Congressional Directory*, pp. 385–402.

[9] Hadley, *Economics*, p. 15.

One of the earliest and best known vindications of unrestrained individualism was that of Adam Smith (1723–1790). In his famous work, "The Wealth of Nations," Smith maintained that self-interest is the mainspring of society, and, consequently, a government harms its people whenever it curbs self-interest. He wrote: "It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages." [10] Further, God, in a wonderful way has made the commonweal depend on the enlightened self-interest of individuals, and with His "Unseen Hand" guides each to work for all. Smith borrowed his basic ideas of personal liberty from the English moralist, Shaftesbury (1671–1713), and the German metaphysician, Immanuel Kant (1724–1804). Later on the same theory was advocated enthusiastically by the classical school of economists including Ricardo (1772–1823), Malthus (1766–1834), John Stuart Mill (1806–1873), and the League of Manchester in 1838.[11] In more recent times, the great defender and popularizer of *laissez-faire* doctrine was Herbert Spencer.[12]

B. Criticism of Individualism.—Apart from the injustices which it causes, the strongest objection against unrestricted individualism is that it leads to the opposite extreme, state absolution.[13] If a government pursues a rigid policy of "every one for himself" and confines its activities to repressing violence and enforcing contracts, it will gradually find within its borders a vast number of propertyless and underprivileged people. They will consist of the weaker, less cunning, and in some cases, the more conscientious, who have been made the victims of the stronger, more grasping, and less ethically minded. In a monarchy, the weaker and oppressed section of the people will clamor for relief, and, if conditions become intolerable, they will demand a new government to protect their interests. Mob tyranny is likely to ensue. This was substantially the condition that preceded and followed the French Revolution. Under a democracy, injustices can be remedied in a more orderly way. For in a democracy, if the wrongs of the many are ignored by the "do-nothing" government, there will be a demand for legislators who will protect the interests of their constituents. These legislators will respond to the demands of the people who elected them, and will pass laws, perhaps indiscriminately, to compensate for what the state had failed to do. Probably much of the new legislation will be unwise. But, whatever the character of the laws passed, whether good or bad, their number will be multiplied. Thus *laissez-faire* paves the way for excessive state action. The pendulum of rigid individualism always swings to its opposite, extreme paternalism.

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[10] Book I, Chap. II.

[11] Garner, *Political Science and Government*, pp. 451 *et seq.*

[12] *Social Statics and Man Versus the State*, pp. 334–375.

[13] Hobhouse, *Liberalism*, pp. 100, 140.

Individualism, therefore, is involved in a strange paradox: it contains within it the germs of paternalism. It develops into what its advocates are most horrified at—state absolutism. The process may be rapid or slow, but the result is inevitable. Various elements and phases in the transition merit close scrutiny. Under an individualistic government the liberty which is maintained is, in reality, a very specious kind of liberty. True, it is liberty, but only for some. It is not liberty of opportunity for all, as it confers new advantages on those already strongly intrenched in power. Consequently, only a small minority in the nation enjoy absolute freedom, and the great mass of the people are subjected to rigid necessity. This condition is aggravated by the fact that in a purely individualistic government, the only abuse of liberty that the law undertakes to restrain is that which manifests itself in external acts, such as thefts, or violence in its various forms. Contracts, therefore, in which deception, trickery or the threat of moral violence play a part are held to be valid and binding.

At present forced contracts occur daily in agriculture and industry. To illustrate, a farmer, not a member of a coöperative association who must deal directly with a powerful elevator corporation, is under the moral necessity of selling his products at a price favorable to the corporation, and perhaps entirely unjust to him. Such a contract is entered into by the farmer through the fear of a serious loss, and yet in the eyes of the law it is recognized as binding. Again, when an unskilled worker, out of a job, agrees with the employment manager of a factory to work for a certain wage, he is under the compulsion either of accepting the wage offered him, or of being out of work, which is equivalent to being without the means of life. Clearly, this agreement lacks one of the essentials of a just contract, as one party is under grave compulsion. And yet, in this case as in that of the farmer, the individualist doctrinaire does not regard the bargain as unjust because physical violence was not employed to enforce the transaction. At the present time, the conditions just described prevail quite generally in agriculture and industry throughout the United States. They point to the need of a new conception of law which will take into account the condition of dependency in which the industrial development of the past six or seven decades has placed the individual farmer and wage-earner.[14]

The inherent weakness of the individualistic doctrine is well summarized by Dr. John A. Ryan:

> The main defect in the individualistic theory of the State is that it contemplates individuals in the abstract, rather than as they actually exist. It regards them as all having equal powers and having the same interests. Of course, this is a thoroughly false conception. Individuals are not equal, either physically or mentally, and their interests differ enormously. When the advocates of the individualistic theory demand that the individual be let alone by the State, what they really ask is that some individuals be permitted to oppress other individuals, and that minorities be permitted to oppress majorities. For example, unlimited freedom of contract in commerce and industry deprives great masses of persons of their rights to humane working conditions, to a decent livelihood, and to the opportunity to purchase the necessaries and comforts of life at fair prices.[15]

It is sometimes objected that the tremendous growth of commerce and industry in the United States since the beginning of the nineteenth century, is due to the adherence of American legislatures and courts to the doctrines of individualism, as enunciated by Adam Smith and his followers. The Federal Constitution, it is argued, went into effect in 1789, insisting strictly on the liberties of individuals and the inviolable sacredness of their property rights; and, generally speaking, American legislatures and courts have faithfully followed the tenets of individualism. Accordingly, the policies of individualism have made America the richest nation in the world.

This explanation of American progress is defective. It overlooks many of the fundamental factors which have contributed to the growth of the material prosperity of the American people during the nineteenth century. For example, it ignores such great causes of wealth as the utilization of steam, the resultant division of labor and the factory system, and the extension of the railroads,—all of which have aided enormously in increasing the national wealth, independently of the doctrines of *laissez-faire.* In addition, the natural resources of the United States, land, mineral ores, coal, and timber, have been practically unlimited. Moreover, it is not true, as it is sometimes assumed, that the theories of law-making and judicial interpretation in the United States have been uniformly individualistic. The great body of social legislation passed since 1890, under the "General Welfare" clause of the Constitution represents a distinct departure from the tenets of individualism. The increased welfare activities in the United States since 1890 are reflected in the increased per capita expenditures of the Federal Government during that period. In 1890, the per capita expenditures were $4.75, and in the prewar year of 1912, $6.84, an increase of 44 per cent. A large part of this increase is accounted for by the increased regulatory activities of the Federal and State Governments, made necessary by the numerous social problems arising out of the greater urbanization of the population. Similar trends are observable in the European nations since 1890.

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[14] Goodnow, *Social Reform and the Constitution*, p. 27.

[15] *America*, July 16, 1921.

In spite of the increase in the number of social regulations, however, social legislation has lagged far behind the actual needs of the people of the United States; and, generally speaking, Americans have remained unduly individualistic in their attitude toward laws and their interpretation. This attitude accounts for many of the more glaring evils now existing in agriculture and industry. Among these may be mentioned the distress of farmers in the grain-growing States, and in cities the evils of child and woman labor, unemployment, and old age dependency.

C. The Socialist School.—Directly opposed to the individualistic theory of the state is that of the socialist school.[16] Socialism is difficult to define, because it lacks authoritative teachers. Practically every socialist writer has his own conception of the aims of Socialism and, consequently his own definition. Socialist writers may be divided into three dominant groups: (*a*) The philosophical socialists, who base their social theories on a materialistic conception of history and of life. Foremost in this group are Karl Marx and Frederick Engels.[17] (*b*) The economic socialists, who emphasize the need of new principles of property distribution, particularly such as would give the worker the entire value of the goods he produces. This group generally follow the Marxian theories of "surplus value," and may or may not follow the Marxian theories of materialism. (*c*) The political socialists, who stress the need of governmental action. This group is either extreme or moderate, according as it stands for governmental ownership and operation of all productive processes, or merely the ownership and operation of the naturally monopolistic industries. Like the economic socialists, they, too, may or may not adhere to Marxian materialism. The outstanding representatives of political socialism are the members of the British Labour Party, and perhaps the majority of socialist leaders in the United States.

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[16] See survey of socialist theories in Laidler, *A History of Socialist Thought.*

[17] Marx, *Capital*, trans. by Moore and Aveling, Vol. I, p. 23; Engels, *Socialism, Utopian and Scientific*, trans. by Aveling, Section III, p. 45.

Here, only the political aspects of Socialism will be examined, that is, the teachings of Socialism regarding the functions of the state in promoting public welfare. The particular form of Socialism which emphasizes governmental operation or regulation of industry, and welfare activities generally, is known as State Socialism. The advocates of State Socialism, however, are criticized by the "scientific" socialists, as being mere temporizers, who, by compromising with the capitalistic system, postpone the eventual establishment of thoroughgoing Socialism.[18]

State Socialism originated in modern Germany and spread rapidly in that country especially between 1880 and 1890, during which period the membership increased threefold. Generally speaking, the entire movement in Germany has been characterized by a demand for state action.[19] Perhaps the large majority of socialist leaders in the United States also can be classified as state socialists. The more moderate group of Socialists in the United States would probably be satisfied to have the government take over the operation of all public utilities, such as railroads, telegraph and telephone systems, coal mines, and water power; fix minimum wages and working standards in the non-public service corporations; and supervise rural coöperative buying and selling.[20]

D. Criticism of Socialism.—The socialist theory of state intervention, like the individualistic, stands condemned by its own excesses. It is a mistake to assume, as the Socialist does, that the public interest is promoted by having the state extend indefinitely its activities over individuals. There is a point beyond which the powers of the state would be exercised not to the advancement, but to the real detriment of public welfare. For example, the state is justified in requiring children to attend school up to a certain age, but it would plainly exceed its authority, were it to prescribe the form of religion in which they are to be instructed. This would be a clear usurpation of the rights of parents, and hence a direct hindrance to welfare.

In a similar way, considerations of public welfare dictate that the state should not intervene beyond a certain limit in agriculture and industry. State intervention may mean either (1) that the state actually produces certain commodities for consumption, or (2) that it merely regulates the work of production carried on by private enterprises.

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[18] Browne, *What's What in the Labor Movement*, p. 461.

[19] MacDonald, *The Socialist Movement*, p. 217.

[20] National Platform of Socialist Party, 1928.

1. In the first instance, the scope of legitimate intervention is determined by the gauge of efficient and economical operation. To what extent does intervention by the state effect a saving to the general public, considered both as taxpayer and patron? There are certain producing and service industries which can be conducted more economically by the state than by private owners. In respect of these it is cheaper for the people to pay taxes to the state and let the state invest the funds in producing and selling than it would be to have the people free from the tax but compelled to purchase from private producers. Among such industries the following are clearly included: the handling of the mails and parcel post; the construction and maintenance of public streets and highways; the building and operation of public libraries and schools; the inspection of food, especially animal products; fire and police protection; sanitation and water supply. These services are now produced at public expense through funds collected as taxes, and the result is an enormous saving to the public. They are therefore a legitimate field for state intervention. In a similar way, when it can be shown that it is more economical for the taxpayer to have the government produce certain public services, such as electric power, street car and railroad transportation, telegraph and telephone service, the state is entirely justified in producing and marketing these goods. Thus the people of Ontario by buying electric power from their governmentally operated hydro-electric plant, save $13.00 for every $1.00 paid in the form of increased taxation. Clearly such economies fully warrant state intervention.[21]

But there is a limit beyond which public welfare does not warrant the state operation of industry. This limit is marked by the point where the citizen is better off paying less taxes and buying goods from private concerns, than he is paying more taxes and buying them from the government. This is illustrated in the case of agriculture.[22] If, for example, the government were to take over the agricultural industry, without doubt the cost of farm products would be very much higher than at present. Farming is naturally adapted to the individual enterprise of the farmer and his family, and it is to the distinct advantage of the buying public to have him operate his own farm. The same is true of all industries which of their nature are non-monopolistic. If the state were to tax its citizens heavily in order to operate this group of industries, the individual citizen would certainly be the loser both as taxpayer and as consumer. To illustrate, if the government were to attempt to manufacture steel and its allied products, the cost of production to the ultimate buyer would undoubtedly be much higher than it is now. The additional burden would be chargeable to many factors, not the least of which would be the waste and inefficiency resulting from the creation of governmental bureaus and the appointment of political partisans to supervise the productive process.[23]

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[21] Ryan, *Declining Liberty and Other Papers*, p. 266.

[22] Laski, *A Grammar of Politics*, p. 436.

2. The second type of intervention is that in which the state merely regulates private enterprise. From what was said in the preceding paragraph it follows that those industries which are naturally non-monopolistic, as well as those which are artificially monopolistic, should remain open to private enterprise. This does not mean, however, that either group should be entirely free from governmental supervision. The latter group, in particular, usually possess enormous powers, and public welfare demands that both the consumers to whom they sell their products, and the workers whom they employ, should be protected. Hence, if the necessity arises, the state is justified in empowering boards to compel such industries to observe an established code of business practice, as well as certain legal standards of wages, hours, and working conditions.

Intervention in the form of regulation, however, can be carried too far. The tendency of extreme individualism to evolve into state absolutism, referred to above, finds a counter danger arising out of extreme state intervention. Excessive state regulation tends, in the course of time, to become a policy of extreme "let alone." This phenomenon was illustrated in England in the 18th century. British statesmen up to that time had been following the tenets of Mercantilism, that is, a policy of placing numerous restrictions on trade, industry, and foreign commerce. These restrictions took the form of taxes, excises, and premiums, and were imposed for the primary purpose of promoting home industries and trade, and of bringing money into the home country. Gradually, however, these restrictions became highly obnoxious, and a severe policy of "let alone" was inaugurated. Again, the pendulum swung from one extreme to the other. No doubt, the same results would follow if a minute and excessive system of regulation were to be set up in the United States. People would revolt against undue interference with their personal freedom, and the community would suffer by the increased costs of the necessities of life.[24]

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[23] Mallock, *A Critical Examination of Socialism*, Chapter X.

[24] For a detailed discussion of this question, see the *Commonweal*, August 8, 1928.

V. LIMITED STATE INTERVENTION

Midway between the individualistic and socialistic conceptions of state functions, is that which may be called the doctrine of limited state intervention. According to this doctrine, the state does not promote public welfare if it follows a rigid policy of "let alone," nor, on the other hand, if it attempts to make laws for every emergency. Similarly it acts unwisely if it places too many restrictions on private monopolies, or, what is still worse, if it attempts to produce goods of a non-monopolistic character. The doctrine of the limited-state-interventionist is summarized in the classical sentence of Leo XIII, in his Encyclical *Rerum Novarum,* May 15, 1891: "Whenever the general interests of any particular class suffers, or is threatened with evils which can in no other way be met, the public authority must step in to meet them." [25] This conditional sentence may be broken up into two parts: first, there are certain situations in which the state must intervene; secondly, there are others in which it must not intervene. The situations in which the state must intervene include all those cases in which groups of persons are powerless to protect or help themselves, and no remedy but state intervention is available. Among these cases may be mentioned the condition of child and woman factory-workers and, generally, that of unskilled male wage-earners. The situations in which the state must not intervene, include those cases in which individuals or groups of individuals are reasonably presumed to be capable of protecting or helping themselves. Among possible abuses of this class may be mentioned the state's arrogating to itself the duties of parents. Clearly, the state would be acting beyond its powers if it attempted to provide all school children with meals and clothing or, what would be absolutely indefensible, with religious instruction.

The limits, therefore, which public welfare sets for state intervention are defined by the answer to the question: Can individuals be adequately protected and their needs provided for either by themselves or by those responsible for them? If the answer is affirmative, the state should not intervene. If the answer is in the negative, the state should intervene. In considering whether or not a particular field of action is a legitimate one for state intervention, the presumption favors the negative, for it must be assumed that the great majority of individuals are able to take care of themselves. It must be presumed that individuals will provide for themselves and safeguard their own interests, or, at least, that their nearest of kin will do so for them. The contrary must be proved before the state is justified in passing a law or creating a commission to remedy a social evil. Thus the care of persons suffering from tuberculosis is a duty devolving on the families of the sufferers. If it can be shown that the members of the family are not in a position to care for them, and, particularly if they are a source of contagion to the family or the community, the state is justified in erecting public sanatoria for those thus afflicted. This has been done by many States and Counties, and constitutes a justifiable and humanitarian exercise of governmental power.

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[25] C. T. S., Translation, p. 18.

State intervention inspired by social welfare, may be exercised in two principal ways. The first embraces all those activities in which the state itself performs certain work, such as, maintaining postal and telegraph systems, schools and universities, public health service, water and sanitation systems, municipal and county hospitals, and alms-houses. The second embraces those activities for which the state enforces certain laws regulating the actions of its people. The principles set forth in the preceding paragraph are applicable in both fields.

The following chapter will survey the field of action in which the state, on grounds of public policy, intervenes by requiring its citizens either to do or to refrain from doing certain things. Such intervention is known as social legislation.

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QUESTIONS FOR REVIEW

1. What are the two main ends of the state?

2. Explain the protective functions of the state. Give examples.

3. What individual rights are protected by the state? (a) Physical, (b) moral and spiritual?

4. What means does the state use to protect rights?

5. What special obligation rests on the state to protect the weaker classes in society?

6. Is a government sure of its own existence if it neglects to promote public welfare?

7. How may the state promote welfare? Give all of the main welfare functions of the state.

8. Show by examples how the protective and promotive functions of the state sometimes merge.

9. What is the social significance of giving equal opportunity to all?

10. Is the state obligated to give food, clothing, or shelter to people?

11. Define welfare.

12. Give examples from early history illustrating the welfare function of the state.
13. Show the growth of welfare functions in present-day government in the United States.
14. Give the main welfare activities of the different departments of the Federal Government in the United States. Of the State Governments.
15. What is individualism?
16. Show the contribution of individualism to social progress.
17. What are some of the limitations of individualism?
18. Give the views of Adam Smith on individualism.
19. What are the main criticisms of individualism?
20. Explain the views of Dr. John A. Ryan regarding extreme individualism.
21. What factors besides individualism have contributed largely to American progress?
22. What is socialism? Define the three kinds of socialists, *i.e.,* philosophical, economic, and political socialists.
23. What is the importance of distinguishing between the different types of socialist doctrine?
24. What is meant by the term "State Socialism"?
25. What are the main criticisms of the socialistic theory?
26. Is government ownership of public utilities Socialism?
27. What is meant by limited state intervention? How far may the state go in the direction of socialism or individualism without serious social harm?

CHAPTER XI

State Intervention and State Assistance

I. ACCIDENTS

A. Extent—B. Causation—C. The Three Objectives in an Accident Program—D. Methods Prior to 1911—E. Existing Legislation—F. Summary

II. SICKNESS

A. Extent—B. Causation—C. Methods Now Employed to Meet the Problem—D. English System—E. American Methods

III. UNEMPLOYMENT

A. Definition—B. Types of Unemployment—C. Extent of Unemployment—D. Incidence of Unemployment—E. Causes of Unemployment—F. Social Effects of Unemployment—G. Remedies for Unemployment—H. The Wisconsin Proposal—I. Summary

IV. FAMILY DEPENDENCY THROUGH LOSS OF FATHER

A. Introduction—B. Extent of Problem—C. Background of the Problem—D. Is Family Dependency Preventable?—E. Remedial Methods

V. OLD AGE DEPENDENCY

A. Extent—
B. Background of Problem—
C. Means of Caring for the Aged—

The development of modern methods of production has created certain hazards for the worker and his family. The increased use of power machinery has meant increased exposure to accidents, sickness, unemployment, family dependency, and needy old age. To meet these hazards society has evolved systems of social insurance and state assistance. They are the safeguards that humanity has thrown around itself with the onward march of the machine. There was no need of elaborate plans of social insurance or state assistance for the wage-earning classes in the United States prior to 1860, inasmuch as the population at that time had not been industrialized and concentrated in large cities. In 1840, only one-twelfth of the population lived in cities of 8,000 or over; whereas, now nearly one-half of the population is living in cities of this size. Moreover, under the pressure of mechanical industry, the American people are becoming more and more urbanized and, as the movement progresses, the wage-earning masses are rendered less and less economically secure.

The modern problems of economic insecurity were practically unknown a few decades ago, when the population was dominantly rural. As they exist at present, they are in an accurate sense the by-products of modern industrialism. Briefly, they are traceable to power machinery, with its natural adaptability to mass capitalization and quantity production. The hazards of modern industrial life may be grouped under five headings: accidents, sickness, unemployment, dependent widowhood, and destitute old age.

Three of these risks,—namely, sickness, dependent widowhood, and destitute old age,—are vicissitudes of life common to all mankind, regardless of social or economic standing. Nevertheless, as will be seen, certain types of these risks,—namely, occupational illness, unprovided widowhood, and premature old age,—assume a peculiar acuteness among the industrial population. The other two, i. e., accidents and unemployment, concern the wage-earning classes exclusively. All of these risks, accordingly, deserve attention in a study of the effects of modern industry on human well-being.[1]

Three remedies have been devised to meet the problems of economic insecurity, and to obtain a steady flow of income for the families of wage-earners. These remedies are differentiated according to the source of the funds distributed as benefits when family income is cut off. They are:

1. *Fraternal Benefit Societies.*—Fraternal benefit societies embrace the entire field of insurance organizations operating on a non-profit basis. In this class are included: the sickness, out-of-work, accident, and old age plans of some of the stronger labor unions; numerous private benevolent associations; and church societies. The distinctive feature of the fraternal benefit society is that its members are the exclusive contributors to the funds disbursed as benefits.

2. *Non-governmental Insurance Associations.*—The non-governmental insurance association differs from the fraternal benefit society, inasmuch as it requires the beneficiary to contribute either nothing at all or, at most, only a small part of the cost of maintaining the insurance fund. The association receives no aid from the public treasury to carry on its work

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[1] For a discussion of the wider social aspects of these risks see Lapp, *Justice First.*

and may be either a mutual or a stock company. The insurance plans against work accidents operating in many States are typical non-governmental insurance associations, inasmuch as the funds which are disbursed are created exclusively by employers. Neither the insured worker nor the State contributes to the treasury of these associations. Another system of private insurance is that in which the costs are borne jointly by employers and employees. This system is exemplified by the unemployment insurance fund in the men's clothing industry, to which the workers contribute one and one-half per cent of their weekly wages, and the employers contribute an equal amount.

3. *State Assistance.*—This method of relief, unlike the preceding ones, does not presuppose the organization of the persons to be benefited. In addition, it requires no contribution, however small, from those who are to be the beneficiaries. It is frankly a plan of public aid, although it is administered in a manner that spares the recipients the humiliation of accepting public charity. The moneys used to carry on this work are provided exclusively by the tax funds of the state. The outstanding examples of state assistance are mothers' pensions, old-age pensions, and Federal and State systems for the rehabilitation of the industrially handicapped.

As the question under discussion involves the relation of the state to the weaker economic groups in society, it is necessary to observe that all the methods described in the three preceding paragraphs involve some form of state intervention. This may occur in either of two ways. First, the state decrees or encourages the formation of certain organizations which shall assist persons in want, but does not contribute financially to the work. Secondly, the state classifies dependent persons according to their peculiar needs, and assists them with funds taken from the public treasury. For some of the "risks" or "hazards" of industrial life, the first of these methods is to be preferred; for others, the second is to be preferred. Some problems of expected dependency can be met best by distributing risks through insurance. Others call for an outright donation of public money. The adoption of one method rather than the other will be dictated by the peculiar character of the problem in hand, and the general principles controlling the relation of government to public welfare.

This chapter is divided into five sections, corresponding to the five hazards of industrial life. The order of their treatment is suggested by the fact that three of them—namely, accidents, sickness, and unemployment—call for state intervention through social insurance; whereas, the remaining two, that is, family and old age dependency, require state assistance through endowments and gratuities. Accordingly, this chapter falls into the following sections: I. Accidents, II. Sickness, III. Unemployment, IV. Family Dependency, V. Old Age Dependency.

I. ACCIDENTS

A. Extent.—Industrial accidents in the United States are responsible for the death of not less than 25,000 persons every year. Annually more than 1,000,000 persons are totally disabled for periods of two weeks and longer, and more than 100,000 are partially disabled for life. The total number of industrial accidents each year is nearly two and one-half millions, which is equivalent to the annual loss of over one-quarter of a billion working days. Computed on the basis of $4.50 per day, this represents an annual wage loss of $1,022,000,000.[2]

With increasing machine production since 1850, the number of industrial accidents has mounted year by year. Even since the advent of the "safety first" movement in 1911, when state commissions, employers, and insurance companies began to give concerted attention to accident prevention, the volume of industrial accidents appears to have increased.[3] This does not mean that progress is not being made in reducing the number of preventable accidents.[4] It means that effective devices for preventing accidents are not being installed so rapidly as new hazards are being created. In other words, the absolute number of accidents is increasing, although the number relative to hazards is decreasing.

B. Causation.—In a discussion of the question of industrial accidents, two facts must be kept in mind. First, industrial production is becoming more and more mechanical; and secondly, as a result, hazards to life and limb are becoming more numerous and more severe. These trends cannot be measured statistically, although certain facts bear out the truth of these assertions. For example, power machinery has been rapidly introduced during the past three decades. The primary horsepower in American manufacturing and mining is about 63,000,000, which is over four times the total reported at the beginning of the century. In the manufacturing industries today, each worker is aided by mechanical power averaging 4.7 horsepower. In 1899 the average was 2.1.[5] With this increase of power machinery, a large number of skilled workers have been forced to become machine operators, or "specialists." The newness of this experience is in itself a special hazard. It is estimated that a green "machine-hand" is from two to five times as likely to be injured as the man who has had experience. In this connection, it is to be recalled that a large percentage of machine operators are immigrant workers, and very many of them have grown to manhood as peasants or farm-workers in Europe. Nearly one-fourth of the American population is of foreign birth, and a large majority of these are unskilled workers. Other factors contribute to the increasing accident rate, but the student can readily fill in the outline just presented.[6]

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[2] U. S. Department of Labor, *Monthly Labor Review*, November, 1923, p. 3; Roger Babson, *Recent Labor Progress*, p. 139.

[3] *Proceedings of the New York State Industrial Safety Congress*, 1927, p. 143; U. S. Department of Labor, *Monthly Labor Review*, November, 1923, p. 1; *American Labor Legislation Review*, June, 1926.

[4] U. S. Department of Labor, *Monthly Labor Review*, March, 1929, p. 89.

[5] U. S. Department of Commerce, *Commerce Year Book*, 1929, Vol. I, pp. 282–283.

C. The Three Objectives in an Accident Program.—A program that will meet adequately the vast and growing problem of industrial accidents must aim at three objectives: (1) *Prevention.*—The elimination of avoidable accidents must be the primary objective in any humane accident program. (2) *Compensation.*—Accidents that are avoidable as well as those that are humanly unavoidable, are to be regarded as a cost of industry, and adequate compensation must be made to injured workers or their dependents. (3) *Rehabilitation.*—When all reasonable precautions have been taken to prevent accidents, and when compensation is made to injured workers and those dependent on them, efforts must be made to retrain maimed wage-earners for useful work, so that they can maintain themselves, partially, at least, at some gainful occupation. A word remains to be said as to what is being done in the field of prevention, compensation, and rehabilitation.

1. *Prevention.*—The chief objective in any program respecting industrial accidents is the prevention of all unnecessary deaths and injuries. No other position can be taken by any one who holds that the worker is a human being, possessed of a personality of intrinsic worth, and essentially more valuable than the economies that might accrue to a corporation from failure to install machine guards or other safety devices.[7] Although there is abundant evidence that an enlightened humanitarian attitude is being adopted by the directors of many large corporations, nevertheless, much remains to be done in the way of lessening fatal and non-fatal accidents. There is general agreement among competent authorities that if reasonable precautions were taken, three out of four accidents could be eliminated.[8] The American Federated Engineers esti-

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[6] U. S. Department of Labor, *Monthly Labor Review*, March, 1926, p. 2.

[7] Chapter II.

[8] Chase, *The Tragedy of Waste*, p. 137.

mate that the number of accidents and deaths in American industries could be reduced by 75 per cent.[9] Their report on waste in industry cites the experience of eight large companies that have succeeded in reducing their severity rates (days lost per 10,000 hours worked) by considerably over 60 per cent within a nine-year period. The most striking example is furnished by the Bethlehem Steel Company, which showed a reduction of 65 per cent in 1920 over 1919, among a working force of 13,000 employees.[10] The achievements of these companies are, however, not typical of all establishments, especially the small ones.[11] Their experience is cited to show that industrial accidents could be prevented to a very great extent, if similar efforts were made generally.[12]

The actual work of accident prevention is carried on in a typical large plant by a safety department in charge of full-time "safety engineers." The safety department holds safety meetings for the foremen, and mass meetings for all the workers in the plant. It receives and verifies the reports of foremen, who are charged with the periodical inspection of machinery. In a word, its duty is to educate workers to the need of safety, and to enlist their coöperation in avoiding accidents.[13] The safety movement has been taken up with great enthusiasm by leading employers, who, though distressed by the number of accidents in their plants, were apparently hitherto unable to meet the problem in a systematic way. In the United States, the activities of the National Safety Council are especially worthy of note. This is an organization of employers, associations, and individuals seeking to promote the safety and health of industrial workers, and of the public generally.

It must be added that the safety movement in this country owes much of its energy to the industrial commissions of the several States, and to the large insurance companies that underwrite industrial accident policies. The original impetus to the reduction of accidents came as a result of the accident compensation laws enacted in the various States, which place the entire cost of accidents on the shoulders of employers. This legislation has done much to reduce accidents, as it holds out a cash inducement to employers to prevent injuries in their establishments. The workings of these laws will be explained later on in this section.

2. *Compensation.*—Any comprehensive plan to meet the problem of industrial accidents must provide for the payment of compensation to

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[9] Federated American Engineering Societies, *Waste in Industry*, pp. 23, 333.

[10] *Op. cit.*, p. 333.

[11] U. S. Department of Labor, *Monthly Labor Review*, January, 1929, p. 63.

[12] U. S. Department of Labor, *Monthly Labor Review*, March, 1926.

[13] Federated American Engineering Societies, *Waste in Industry*, p. 338.

the injured worker or his dependents. An award of compensation serves a twofold purpose. First, it tends to prevent avoidable accidents, as it penalizes the employer who fails to provide a reasonably safe work-place for his employees. Secondly, it satisfies the demands of justice, at least, when the indemnity is equitable. It is evident that justice cannot be satisfied adequately by monetary compensation, since no cash benefit can fully compensate for the loss of a life or a limb, or for the suffering of the injured worker and those dependent on him. Moreover, injured workers bear from one-half to two-thirds of the total direct cost of accidents. Mr. John B. Andrews says: "Thus actuaries estimate that even under the laws which are most liberal as to waiting-period and weekly maximum, the injured workman is reimbursed for only about one-half of the earnings he loses."[14] The Federated Engineering Societies estimate the total money loss from accidents in 1919 in the United States at $1,014,000,000. Of this amount $349,000,000 was borne by employers and $665,000,000 by employees and their families.

From the nature of things, it is impossible to fix the share of responsibility for accidents chargeable against either management or workers. With the exception of wilful misconduct, intoxication, for example, it is usually very difficult to determine whether the mechanical equipment or the worker himself is the cause of the accident. The operation of power machinery and tools always involves some danger to life and limb, and even in plants where extreme care is exercised in making the machinery and tools safe, the accidents due exclusively to machinery and tools can be reduced by only five or ten per cent. According to reliable estimates, however, a still greater reduction can be effected by attention to other features of the plant, such as, lighting, internal transportation, and the substitution of improved machines for those which are highly dangerous to operate.[15] Finally, studies in fatigue show that the accident rate can be reduced very markedly by shortening the working day.[16] To summarize: in some instances, the mechanical equipment is solely responsible for accidents, whereas in many others, the worker himself is, at least, a contributory cause. Nevertheless, the fact remains that whenever a wage-earner accepts work at a machine he exposes himself to accidents. His assumption of this risk is in itself a sufficient ground for compensation.

It is an accepted principle of modern business that a person should

[14] *American Journal of Sociology*, July, 1928, p. 102.

[15] Federated American Engineering Societies, *Waste in Industry*, p. 337.

[16] Florence, *Economics of Fatigue and Unrest*, pp. 292–296.

be paid for assuming necessary risks. In fact, this principle is the foundation of the entire structure of modern commerce and industry. Profits, in the strict sense of the term, are conceded to the profit-taker as legitimate and just, because he has exposed his investment to the possibility of loss.[17] The claim of the worker to compensation for his risks rests on much higher grounds. The risks that he assumes are risks to his life and physical integrity; whereas, those of the investor are risks to his material goods. While it is true that some business men fail, it is true also that the profits of all business men, as a group, are more than enough to recompense them for the possible losses to which they have exposed their investments. At least, there is always some surplus that is a payment for assumed risks.[18] This, however, is not the case with all wage-earners as a group. In addition to their physical suffering, workers, because of accidents, lose a very considerable part of their wages. Less than one-fourth of their actual and prospective wages is paid them in the form of accident compensation.[19] Justice, therefore, demands that the victims of accidents be compensated at least for the loss of wages and future earning power.

3. *Rehabilitation.*—By rehabilitation is meant the reëducation or retraining of the physically maimed for the purpose of enabling them to support themselves to the extent that their disabilities permit. Rehabilitation must be given a prominent place in any industrial accident program. The term has a very wide meaning. For example, the medical treatment given to a worker immediately after an injury or during the first week of his disability, may be regarded as rehabilitation. Many large corporations maintain "first-aid" departments with full-time physicians and nurses in attendance. By giving immediate attention to minor cuts and fractures, numerous cases of blood-poisoning and amputation are prevented. Emergency systems of this kind are forms of rehabilitation.

More commonly, however, the term is applied to the retraining for work of persons who have left industry, permanently disabled because of the loss of hands, feet or other members; or who are suffering from heart, lung, or other internal disorders. In Massachusetts the number of permanently disabled persons who have had a work history is estimated at between 20,000 and 24,000. On the basis of an analysis of the closed cases on the records of the Vocational Training Division of Massachusetts on November 30, 1924, it is estimated that fully one-half of all the industrially handicapped population of the State could be restored to an approximation of their former earning capacity.[20] The experience in Massachusetts may be taken as typical of what might be accomplished in other States, if sufficient funds were appropriated for this work. From whatever angle viewed, restoring earning power to the industrially maimed is far more desirable than assisting them through charity. At the present time, the Federal Government offers a dollar-for-dollar subsidy to the States that are willing to undertake the work of rehabilitation within their jurisdictions. Only four States, Delaware, Kansas, Vermont, and Washington, have failed to enter into coöperation with the Federal Government in retraining industrial cripples for new employment.[21]

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[17] Ely, *Outlines of Economics*, 4th rev. ed., pp. 524–526.

[18] National City Bank, *Bulletin*, January, 1930, p. 5.

[19] Federated American Engineering Societies, *Waste in Industry*, p. 22.

D. Methods Prior to 1911.—The methods now employed by the various American States in behalf of injured workers and their dependents can be understood best by reviewing the conditions that existed before the advent of state intervention in 1911. It may be said that prior to that year, the policy of the States was purely individualistic. They had no social policy whatsoever respecting industrial accidents. They did not concern themselves with prevention or rehabilitation, and left the adjustment of indemnities to the courts. As a result, the injured workman, because of his inability to employ expert legal advisers, and especially because of the common law "defenses" of the employer, was frequently deprived of rightful compensation.

The "defenses" with which the law protected the employer at court were three in number. (1) *Contributory Negligence.*—Under this defense, the worker could not recover from the employer if it could be shown that the accident was in any way due to the worker's negligence. (2) *Assumption of Risk.*—This defense was based on the grounds that the employee accepted the risks inherent in the occupation provided by the employer, and hence the employer was exempted from liability for injuries that the employee might sustain while at work. (3) *The Fellow-Servant Rule.*—This rule declared that the injured worker could not collect damages from the employer if it could be shown that the accident was due to the neglect or carelessness of a fellow employee of the injured worker.[22] It is evident that one or more of these "defenses" could be used by skilful attorneys to release employers from any payment to injured workers. Very frequently, too, the damages allowed by juries were consumed in court costs and attorneys' fees. In fact, the reports of the legislative committees of some States on conditions in workers' homes and in hospitals prior to the passage of accident compensation laws, disclose one of the most depressing chapters in American industrial history.[23]

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[20] U. S. Department of Labor, *Monthly Labor Review*, December, 1925, p. 185.

[21] *American Labor Legislation Review*, December, 1929, p. 392; U. S. Department of Labor, *Monthly Labor Review*, February, 1929, p. 91.

[22] Rhodes, *Workmen's Compensation*, p. 13.

The enactment of accident compensation laws abolished the employers' ''defenses'' and introduced an entirely new procedure, and yet, though it marks a distinct advance over the earlier method, the new procedure has failed of adoption in several States. Four: Arkansas, Florida, Mississippi, and South Carolina, still retain the antiquated and inhumane, ''defenses,'' and a disabled worker is thrown upon the mercy of a court and jury to recover damages.[24] With the exception of these commonwealths, all of the forty-eight States, together with the District of Columbia, Alaska, and all the Provinces of Canada, now compensate injured workers under the new legislation. Its theory and administration will now be explained.

E. Existing Legislation.—Since 1911, forty-four States have passed workmen's compensation laws. These laws have abrogated the employers' ''defenses,'' and have established in their stead a system of compensation which automatically pays injured workers or their nearest of kin fixed sums according to the severity of their disabilities.[25] The theory of the new system is that none of the antiquated ''defenses'' is truly applicable to present industrial conditions, and that industry must bear the costs of accidents in the same way that it does the other costs of production. Under most of the laws, evidence is taken, and awards are made by a compensation board, which is salaried by the State. Generally speaking, accident cases have been taken out of the jurisdiction of the courts, and the worker is saved the expense of costly and doubtful litigation.

The main features of the various State laws may be understood best by examining the provisions of a typical statute, that of New York. This law, passed in December, 1913, and subsequently amended, requires that compensation be made for ''accidental injuries arising out of and in the course of employment, and disease or infection naturally and unavoidably resulting therefrom, causing disability for more than two weeks, or death, unless caused by the wilful intention of the injured employee to bring about the injury or death of himself or another, or by his intoxication while on duty." Practically all hazardous employments are included, but all domestic and farm-workers are excluded. The entire cost of compensation is borne by the employer. In case of death, $100 is allowed for funeral expenses, and the widow, or dependent widower, as the case may be, receives 30 per cent of the deceased spouse's wages, with an additional 10 per cent for each child under eighteen years of age. Payments cease on the death or remarriage of the surviving spouse, or when the widower's dependence ceases, with two years' compensation on remarriage. In computing death benefits, no wages in excess of $100 per month are considered. In case of disability, payments begin on the fifteenth day, but if disability continues more than forty-nine days, compensation is allowed from the date of the accident. Besides compensation for the cost of medical and surgical treatment and hospitalization, an allowance of 66⅔ per cent of the wages is granted for total or partial disability. The employer may either insure himself against accidents to his employees, or take out insurance in the State fund of New York or in a mutual or stock company. The adjustment of disputes and the making of awards are in charge of the State industrial commission.[26]

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[23] See for example, *Report of the Special Committee on Industrial Insurance*, Wisconsin Legislature, 1909–1910.

[24] U. S. Department of Labor, *Monthly Labor Review*, August, 1929, p. 85.

[25] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 272, p. 90.

Compensation legislation in the United States is still in the stage of experiment. Although the laws are interpreted liberally, they are in many States unduly restrictive of the rights of injured workers, particularly as to the amount of compensation and the "waiting period" required before benefits can be recovered. Nevertheless, much good has already been accomplished. In Wisconsin, for example, more than 228,000 accident cases were settled, and over $36,000,000 was paid to injured workers from September 1, 1911, to December 31, 1926.[27] In the United States, each year, a sum considerably in excess of $100,000,000, exclusive of deferred payments, is paid to injured workers and their dependents.[28] There is, too, a growing tendency in the various States to liberalize the laws in favor of injured workers, by adding amendments to existing statutes. For example, the "waiting period" before benefits can be collected, has been reduced quite generally from a standard of two weeks to one week, or less. Moreover, since 1919, in a majority of States, the compensation rates have been increased from a 50 per cent to a 60 or 66⅔ per cent basis.[29]

It is also coming to be recognized that the most satisfactory, as well as the most equitable method of insuring employers, is for the State itself to provide for the sale of insurance to employers through State funds, making it unnecessary for them to buy it from mutual companies or private stock-companies. This is a step forward. The U. S. Bureau of Labor Statistics estimates that it costs employers in the United States an additional $30,000,000 each year to insure their workers in private insurance companies. This amount could be saved for distribution to injured workers and their dependents, if all the States were to establish State insurance funds. At present, seventeen States provide state funds for the insurance of employers.[30]

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[26] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 272, p. 49; for minor changes in the law, see *Monthly Labor Review*, April, 1929, pp. 98 *et seq.*

[27] *Wisconsin Labor Statistics*, July 1, 1927.

[28] Rubinow, *The Survey*, May 15, 1926, p. 234.

[29] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 272, p. 15.

F. Summary.—The foregoing discussion may be summarized by saying that the problem of industrial accidents is of such vast dimensions that it requires state intervention. Such intervention must aim at three objectives,—prevention, compensation, and rehabilitation. While much still remains to be done in each of these fields, the progress that has been made since 1911 is highly encouraging. The workmen's compensation law is another illustration of the general principle that when any considerable section of the population suffers a wrong or injustice, and private initiative is incapable of removing it, the state is entirely within its rights and, moreover, it has the duty, to intervene in behalf of those who are unable to protect themselves.

II. SICKNESS

A. Extent.—The present discussion is limited to the problem of sickness insofar as it is a cause of economic insecurity, that is, to the extent that it incapacitates the father or main bread-winner of the family. It is necessary to restrict the treatment in this way, because it is by the illness of the father, or main bread-winner, that the flow of income into the family is stopped, and the family, usually, is reduced to distress. Exact figures as to the loss of working time due to sickness are not available, but reliable authorities estimate that, on the average, adult males lose seven to eight days per year, and adult women-workers, from eight to twelve days. The data indicate that the wage-earners in the United States lose at least 250,000,000 working days per year.[31] At four dollars per day, this is equivalent to a yearly wage loss of a billion dollars.

These general averages, however, tend to obscure the most distressing feature of sickness, that is, its far greater frequency and severity among persons of small incomes than among those with large incomes, and the professional classes generally. Louis I. Dublin, statistician of the Metropolitan Life Insurance Company, estimates that a man not engaged in industry has a life expectancy seven years greater than has a wage-earner.[32] The studies made by the U. S. Public Health Service warranted the statement: "These data afford statistical evidence of what has in general been accepted, viz: that there is more sickness and a higher death rate among the poor than among the well-to-do." [33]

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[30] McCahan, *State Insurance in the United States*, p. 18.

[31] The Committee on the Cost of Medical Care, *Abstract of Publication*, No. 2, 1929.

These conclusions agree with what has long been observed regarding sickness among industrial workers. First, sickness more than any other cause compels persons to seek public and private charity, one out of every three applications for relief involving sickness. Secondly, the mortality rate per 1,000 of the working population is two or three times that of the preferred occupations.[34] The non-accidental death-rate among common laborers in England in 1900 was nearly twice as great as among transport and textile workers, and nearly four times as great as among the clergy and farmers.[35]

B. Causation.—Sickness is a vicissitude of life to which every person is subject. It is not an industrial hazard in the sense that tool and machine accidents are industrial hazards. For example, it cannot be said that a tannery worker suffering from pneumonia has contracted his disability in his work place in the same direct way that a metal worker who has lost his hand in a drill-press, has contracted his disability from his occupation.

Nevertheless, if diseases are classified, some definite conclusions regarding the connection between employment and disease are warranted. In the first place, there can be no reasonable doubt that certain types of diseases, known as occupational diseases, are directly traceable to the trade in which the worker is engaged. In this class are included: anthrax; compressed-air illness, commonly known as the "bends"; diseases due to the gradual absorption of certain poisons such as lead, arsenic, phosphorus, mercury, and brass; and diseases caused by fumes or dust entering the respiratory organs.[36] Secondly, there are certain diseases which, in all probability, are attributable to the worker's occupation. In this class are included many forms of tuberculosis, typhoid fever, erysipelas, and pneumonia. If these diseases have been induced or aggravated by a work accident, there is, of course, no question that they are the result of the worker's occupation.

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[32] *Health and Wealth*, p. 273.

[33] U. S. Treasury Department, Public Health Bulletin, No. 165, p. 13.

[34] Federated American Engineering Societies, *Waste in Industry*, p. 358.

[35] Florence, *Economics of Fatigue and Unrest*, p. 309.

[36] For classification of occupational diseases see U. S. Department of Labor, *Monthly Labor Review*, July, 1929, p. 29.

True, all the diseases of wage-earners are not caused by their employment. Nevertheless, as stated above, the sickness rate is disproportionately high among workers with small incomes. Inasmuch as the daily wage is the only means of livelihood for the great mass of common laborers and their families, the community is usually obliged to support them whenever the father becomes ill. It appears likely that, in the near future, the various States will approach the problem of sickness among wage-earners in the same way that they have approached the problem of industrial accidents. This would mean a total disregard of the question of the employee's responsibility for his illness, and would lead to the establishment of a system of compulsory health insurance on a non-contributory basis, at least for workers who are receiving very low wages.

C. Methods Now Employed to Meet the Problem.—Efforts are being made to mitigate the effects of sickness among wage-earners through the formation of mutual benefit societies, notably by fraternal groups, religious bodies, and trade-union organizations. Ordinarily, the persons who take out such insurance possess, at least, a slight surplus above the required necessities of life. The great mass of wage-earners, however, who receive an insufficient wage year after year, are obviously unable to purchase even this modest form of protection. Official investigations have disclosed that about two-thirds of all wage-earners do not carry health insurance; the other third being insured for only small amounts, and usually not for medical benefits.[37] Thus even the mutual benefit association, with its low rates, has failed to meet the problem to any great extent.

A more enlightened view of the problem considers sickness primarily from the side of prevention. Quite clearly, it is impossible to eliminate sickness entirely, but through education and a greater socialization of medical service, the present illness rates can be diminished considerably. According to Professor Irving Fisher, 40 per cent of all sickness is preventable.[38] The success achieved by the large life-insurance companies through health campaigns and the periodic examination of policy-holders, is a striking illustration of what can be accomplished in an organized way in raising health standards. The preventive work carried on by some of the large industrial corporations proves also that much sickness and premature death among wage-earners can be avoided. This does not mean that the problem of sickness can, or should be solved by manufacturing establishments. Although many industrial corporations make excellent provision for their regular employees, their medical departments are unable to serve the great mass of people who are working for wages. Then, too, in slack periods, a very considerable number of unskilled wage-earners are forced to move from place to place to secure employment and, consequently, cannot apply for medical aid at any one particular plant. Private initiative, therefore, is inadequate to cope with the problem of sickness in its many-sided aspects. What is needed, if all are to be reached, is a system of public health service that combines prevention and relief.

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[37] Commons and Andrews, *Principles of Labor Legislation*, p. 426.

[38] Chase, *The Tragedy of Waste*, p. 139.

D. English System.—For fifteen years Great Britain has been operating a plan of compulsory health insurance which aims at handling the problem of sickness in its wider social phases. The plan proceeds on the theory that sickness in any part of the population is a matter of public concern, both physically and financially. Practically all wage-earners are obliged to take out insurance against sickness, under a system supervised by the Ministry of Health. Every male manual worker from sixteen to seventy years of age is required to contribute nine cents a week for health insurance. His employer contributes the same amount, and the government contributes the remainder. In the event of sickness, the worker receives the services of a physician free and, in addition, $3.75 per week for 26 weeks. A woman wage-earner contributes a smaller amount, and her sick benefits are likewise smaller.[39]

No fewer than twenty-six European countries have adopted some form of health insurance.[40] Although these plans are not perfect, especially because of their inadequate provision for medical attention to the sick, nevertheless, they indicate noteworthy progress in the direction of combating disease and relieving distress among the wage-earning population.

E. American Methods.—In the United States, no system of health insurance and medical care has been established similar to that of Great Britain or of other European countries. The only governmental provision that has been made for sick wage-earners in the United States is contained in the sections of the various accident compensation laws which prescribe compensation and medical attention for occupational diseases. At present, there are laws in more than one-fourth of the States requiring the payment of benefits for occupational diseases as well as for accidents.[41] In many other States, laws which do not expressly cover occupational diseases have been interpreted by courts and commissions as applying to occupational diseases as well as to accidents. But, obviously, there is much sickness among wage-earners which cannot be traced to their work-places as directly as lead-poisoning can be traced to a stereotyping room, or anthrax to a woolen factory. It is in the vast field of non-occupational diseases that organized effort is necessary. The problem calls for the application of the insurance system, providing not only for the payment of benefits, but also for proper medical attendance in time of sickness.[42] In addition, special attention should be directed to the development and maintenance of dispensaries, clinics, and public health centres. This feature of the work is, at least, as important as the payment of sick benefits. A successful insurance system can be worked out by studying the methods employed in foreign countries, and by experimenting with them until a satisfactory technique is evolved.

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[39] *Canadian Labour Gazette*, April, 1928 and February, 1929.

[40] U. S. Department of Labor, Bureau of Labor Statistics, *Handbook of Labor Statistics*, 1929, Bulletin 491, p. 462.

What is of particular interest here, is not the actual administration of a compulsory insurance system, but rather the general theory upon which it is based. The establishment of health insurance with public dispensaries, clinics, and health centres, implies a considerable degree of governmental intervention in a matter that should ordinarily be left to individuals themselves, or to privately organized effort. But an examination of the private efforts that are being made to meet the problems of sickness among the weaker economic classes, shows that private initiative is inadequate. Under existing methods, the rights of the poor are often disregarded and, in addition, community rights are in constant jeopardy. In a word, private initiative has failed. Hence, state action, as outlined above, is imperative.

III. UNEMPLOYMENT

A. Definition.—Unemployment is the third form of economic insecurity peculiar to modern industrial society. The term, unemployment, is very indefinite, as it includes complete unemployment, part-time unemployment, and unemployableness. Again, unemployment may refer to different types of unemployed workers: namely, the "work shy," the casual laborer, the physically or mentally handicapped and, finally, the individual who is "willing and able to work but unable to get work." The present discussion is limited to persons of the last-named type. The definition of an unemployed man, as given by Mr. B. Seebohm Rowntree, an English employer, will limit the problem sufficiently for the present purpose. "A person is unemployed," he writes, "who is seeking work for wages, but is unable to find any suited to his capacities and under conditions which are reasonable, judged by local standards."[43]

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[41] U. S. Department of Labor, *Monthly Labor Review*, April, 1929, p. 98.

[42] See the Author's *Social Insurance and Health* in Proceedings of the National Conference of Catholic Charities, 1928, pp. 286–296.

In this definition, the phrase, "reasonable, judged by local standards," deserves special attention. It carries the suggestion that if local standards are ignored, and if wage levels are set low enough, all unemployment can be abolished. In the same way, a department store could dispose of all its stock in a single day, provided it were to sell its merchandise "at any price." Such a concern, of course, would immediately go out of business. Similarly, the attempt to give employment to all the unemployed by cutting wages indiscriminately would mean social ruin. Only a bankrupt society would resort to such a measure. Eliminating unemployment in this manner would produce far greater evils than unemployment itself.

B. Types of Unemployment.—Six main types of unemployment may be distinguished:

1. *Cyclical Unemployment* is that form of unemployment which results from business depressions. Such depressions, or "hard times," recur with striking regularity every seven or ten years. Thus there was severe unemployment during the panics of 1892–1893, 1904–1905, 1907–1908, 1913–1914, 1920–1921, and 1929–1930.[44] During such periods, employees are thrown out of work in large numbers. For example, there were 4,102,000 fewer persons on pay-rolls in the third quarter of 1921 than in the third quarter of 1920, a reduction of about one-seventh of all who had been employed at the earlier period.[45]

2. *Technological Unemployment* is that volume of unemployment which results from the increased use of power, and of labor-saving machinery. Naturally, with the operation of labor-saving machines, fewer men are necessary to produce a volume of output equal to that yielded previous to the installation of the machinery. As a result, some men are discharged permanently. This process may be observed by reviewing the data on increased per capita production extending over a period

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[43] Rowntree and Lasker, *Unemployment a Social Study*, p. 13.

[44] Watkins, *An Introduction to the Study of Labor Problems*, p. 225.

[45] National Bureau of Economic Research, *Employment, Hours and Earnings in Prosperity and Depression in the United States*, 1920–1922, p. 29.

of years. The United States Department of Commerce estimates that from 1899 to 1927 the output per worker in agriculture and on railways increased by about 60 per cent; in manufacturing, by nearly 50 per cent; and in mining, by 118 per cent. This is a weighted average increase of 58 per cent for the four groups, and means that the total output of the major industries of the country in 1927 could have been produced with less than half the number of workers required in 1899.[46] Technological unemployment is one of the most serious forms of unemployment. It strikes middle-aged craftsmen with special severity. Alert young men, with little previous training, are put to work at machines, where they displace middle-aged mechanics. The latter, in turn, are forced to join the unskilled, whose ranks are always overcrowded.[47]

3. *Seasonal Unemployment* is the term used to describe the working time lost in certain trades every year, regardless of whether general business conditions are good or bad. For example, the boot and shoe industry has two feverishly busy seasons, when work is abundant, and two exceedingly dull seasons, when work is slack, or not to be had.[48] The same conditions prevail in most of the garment trades. The American Engineering Society reports: "The clothing worker is idle about 31 per cent of the year; the average shoe-maker spends only about 65 per cent of his time at work; the building-trade workman is employed only about 190 days in the year, or approximately 63 per cent of his time; the textile industry seemingly has regular intervals of slack time; during the past thirty years, bituminous coal miners were idle an average of ninety-three possible working days per year." [49]

4. *Part-Time Unemployment,* or intermittent unemployment, occurs among workers who, for various reasons, are compelled to work "short-time," although their employment may be otherwise fairly continuous throughout the year. Under this heading is included the time lost because of bad weather, car shortages, delays of materials and fuel, interruption of power, and break-down of machinery. The aggregate enforced idleness due to these causes is considerable. For example, in February, 1926, of the total number of 242,988 employees in 988 establishments in various industries in Massachusetts, 75,709, or nearly one-third, were working part-time.[50]

5. *Residual Unemployment* is the term used to describe the working

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[46] U. S. Department of Commerce, *Commerce Year Book,* Vol. I, 1929, p. 32.

[47] *The Survey,* April, 1929.

[48] See the Author's *Shop Collective Bargaining,* pp. 156 *et seq.*

[49] *Waste in Industry,* p. 16.

[50] U. S. Department of Labor, *Monthly Labor Review,* May, 1926, p. 147.

time lost by all persons who are out of work on any given date because of business depression, seasonal fluctuations, and part-time unemployment. This number is never less than one million workers, even in prosperous times, and it swells to four or five millions during severe business reactions. Even throughout the intensely active period of wartime production, extending through 1917 and 1918, when the reserve army of the unemployed was lower than it had been at any time during the preceding twenty years, more than a million men were out of work. In normal times, one or more out of every forty men are unable to find employment.[51]

6. *Turnover Unemployment* refers to the time lost by workers in changing from one job to another. When an employee is discharged because of unsatisfactory performance, or when he quits because he is dissatisfied, he cannot, ordinarily, step into another job at once. Sometimes the interval between jobs is long, again, it is short. Roughly estimated, the average time lost in finding new employment is two weeks. The very high turnover among unskilled workers would indicate that their average is considerably longer.[52]

C. Extent of Unemployment.—With the exception of residual unemployment, each of the classes of unemployment just enumerated is separately responsible for the loss of working time. Attempts have been made to estimate the time lost in each class, but these estimates are little better than guesses. It is somewhat more accurate to estimate the lost time in all the classes taken together, by striking an average for several years. According to a report of the Russell Sage Foundation, from 10 to 12 per cent of the workers of the United States are continuously out of work when good and bad years are averaged. This means that approximately a million and a half wage-earners are unemployed at any given time, taking slack and prosperous years together.[53]

During the period from 1920 to 1927, which included the very active business years of 1920, 1923, and 1926, the estimated unemployment was not less than 1,400,000 in any one year. In 1921, it was over four and one-quarter millions.[54]

Some groups of workers are, of course, forced to lose more time than others. For example, those in the principal manufacturing and mining industries are compelled to be idle from one-fifth to one-third of the full working time each year.[55] On the other hand, some highly organized craftsmen, such as newspaper compositors, lose ordinarily only a few working days each year. It is safe to say that over and above the time lost because of sickness, all wage-earners lose, on the average, not less than 10 per cent of their working time each year through involuntary unemployment.[56]

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[51] Federated American Engineering Societies, *Waste in Industry*, p. 15.

[52] Blum, *Labor Economics*, pp. 199–204.

[53] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 310, p. 2.

[54] The President's Conference Committee, *Recent Economic Changes in the United States*, Vol. II, p. 478.

D. Incidence of Unemployment.—By the incidence of unemployment is meant its tendency to fall with greater severity on some classes of workers than on others. Generally, the lower the wage, the greater the amount of time lost through enforced idleness. The Federated Engineers report: "Experience has repeatedly shown that common laborers are the first to be laid off in dull times and the last to be taken on when business improves." [57] According to the National Bureau of Economic Research, the maximum decline in the number of unemployed on factory payrolls from 1920 to 1922 was 26 per cent, while that of employees engaged in commerce and trade was 3 per cent, and that of employees in public and professional service was 2 per cent.[58]

That unemployment is particularly acute among bread-winners in families of very low incomes, may be observed by comparing the number of applications for public charity in prosperous years with the number during slack times. In 1917–1918, a period of widespread business activity, only 10 per cent of the families receiving major assistance from the United Charities of Chicago sought aid because of "unemployment of the able-bodied father of the family." In 1921–1922, a period of industrial depression, 42 per cent of the families sought help for this reason.[59] During the same period, a survey was made by the Children's Bureau in two industrial cities: Springfield, Massachusetts, and Racine, Wisconsin. It was discovered that in over half of the families applying for charitable aid the fathers were men of sober and industrious habits.[60] These data are fairly typical of conditions in all industrial districts during "hard times." [61] They show that there are a considerable number of families in every manufacturing city who are able to maintain themselves without asking for charity only so long as the father is continuously employed. When a period of unemployment sets in, they are compelled to draw upon their savings, go in debt, and finally ask for public relief.

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[55] U. S. Treasury Department, Public Health Bulletin, No. 76, p. 34.

[56] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 310, p. 2.

[57] *Waste in Industry*, p. 275.

[58] *Employment, Hours and Earnings in Prosperity and Depression in the United States*, 1920–1922, p. 30.

[59] United Charities of Chicago, Report to October 1, 1922.

[60] U. S. Department of Labor, Children's Bureau, Publication No. 125, p. 79.

[61] Klein, *The Burden of Unemployment*, pp. 99 *et seq.*

E. Causes of Unemployment.—Two general explanations are given for the various types of unemployment. The first consists of a single theory. It holds that unemployment is due to defects in the present system of commodity distribution. The second consists of a list of specific causes. These causes operate cumulatively in producing unemployment.[62]

The first explanation is that unemployment is due chiefly to the overproduction of goods in many industries or, what amounts to the same, the underconsumption of these goods. This theory, advanced about 15 years ago, has been defended by a number of economists, notably John A. Hobson of England. It is stated in simple form by Secretary of Labor, James J. Davis. He says: "The greatest source of unemployment in this country is the overdevelopment of industry. The fact is that our productive machinery and equipment cannot run 300 days in the year without producing a stock so large that it cannot all be sold in this country nor in any and all other countries."[63] According to the proponents of the "overproduction" theory, the facilities for production are utilized to the limit of their capacity during the upward swing of business activity until, suddenly, warehouses and stock rooms are filled with goods that cannot be marketed. A shutdown necessarily follows, because producers are faced with the likelihood of lower prices, or even losses. As a result, the theory runs, men are thrown out of work and, consequently, are unable to buy the actual or potential surplus of goods. Hence there exists the paradoxical condition of an enormous surplus of commodities, and millions of wage-earners desiring, yet cut off from, the means of buying them.

Foster and Catchings write: "Since the end of all economic activity is consumption, money spent by consumers is the force that keeps the wheels of industry moving. Current consumption is the chief incentive to current production; deficiency of current consumer-buying is the chief cause of unemployment."[64] According to this theory, therefore, overproduction is one side of the coin; underconsumption, the other; and underconsumption, in turn, is due to unemployment with the consequent inability to buy goods.[65]

The second explanation of unemployment consists of an enumeration of certain factors operating more or less independently, but all producing the same result. Various classifications of these factors have been proposed at different times. The United States Industrial Commission of 1902 grouped the causes of unemployment under three headings: (1) Personal, including the various forms of personal ineptitude, ranging from mental defectiveness, intemperance and vice, to sickness, old age, and accidents. (2) Climatic, including causes resulting either from the weather or the seasonal character of consumption. (3) Industrial, including the invention of improved machinery, the consequent elimination of workers from industry, and the time lost because of strikes.[66]

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[62] U. S. Senate Report, 1063, 70th Congress, 1st Session; for causes of unemployment in Great Britain, see Appleton, *Unemployment*, pp. 27 *et seq.*

[63] U. S. Department of Labor, *Monthly Labor Review*, October, 1925, p. 9.

[64] *Profits*, p. 234; see also *The Road to Plenty*, by the same authors; and *The Atlantic Monthly*, April, 1926.

[65] For a brief criticism of this theory see *The Survey*, April 1, 1929, pp. 17–18.

This enumeration, however, is inadequate, as it fails to take into account the more basic causes of unemployment, especially the overexpansion of plant equipment stimulated by the credit system. The enumeration proposed by Professor Watkins is far more satisfactory. He divides the causative conditions of unemployment into four classes: (1) Social conditions, which include the unequal distribution of wealth and income, land monopoly, immigration, the inadequate organization of the labor market, and insufficient provision for industrial training. (2) Economic conditions, which embrace revolutionary, cyclical and seasonal fluctuations in industry; the existence of a labor reserve; strikes and lockouts; faulty industrial management; wasteful methods in commodity distribution; and the overexpansion of credit. (3) Personal conditions, that is, physical and mental disability, economic inefficiency, and moral deficiency. (4) Political conditions, which result from the fiscal, tariff, and international policies pursued by the national government.[67]

Without attempting to estimate the respective merits of these two general explanations of unemployment, namely, underconsumption and cumulative causes, it may be said that for the immediate relief of the unemployed, the second is the more helpful. After a satisfactory classification of the causal factors has been made, studies in industrial plants and in the homes of workers will reveal which factors preponderate. This will give a clue to the method most effective in coping with the general problem.

F. Social Effects of Unemployment.—The consequences of unemployment are economic and social. The immediate economic effect is the stoppage of income. This frequently necessitates many readjustments in family life, which are injurious alike to the family members and to society at large. In a time of severe depression the yearly income of the father may be reduced to three-fourths or even two-thirds its usual amount. Thus the average yearly earnings of high- and low-wage employees in large plants dropped from $1,544 in 1920 to $1,112 in 1921, a falling off of $432. The salary and wage payments to all employees were nearly two and three-quarter billion dollars ($2,729,000,000) less at the beginning of 1922 than at the close of 1920.[68]

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[66] *Final Report*, Vol. XIX, pp. 746–763.

[67] *An Introduction to the Study of Labor Problems*, pp. 219–221.

The deficit in the family income due to unemployment is made up in various ways. In some families the mother finds employment outside of the home, or the children are taken out of school and sent to work. In other cases, savings are drawn upon, mortgages assumed on the home, and debts incurred for food and clothing. As a last resort, public relief is sought. In 557 of 1,000 families receiving aid from three Boston agencies, it was found that unemployment or underemployment was either the partial or exclusive reason for asking for assistance.[69] In any event, the adoption of the courses mentioned is likely to result in irreparable harm to the family, and to the community as well. Clearly, if there are young children in the family and their mother is gainfully employed away from home, their welfare suffers because of lack of care and supervision. Again, the self-respect and the general morale of a family are undermined, if an able-bodied father is compelled to ask for public aid. Finally, continued unemployment embitters him against existing social institutions, and not infrequently leads him to commit petty or even serious crimes.[70]

G. Remedies for Unemployment.—The remedies proposed for unemployment fall into two main divisions: (1) those involving no governmental intervention or, at least, no compulsion to use state agencies; and (2) those involving governmental intervention of a mandatory character.

1. The proposals of the first class include: the unemployment plans of private corporations and trade unions; the movement for a shorter working day; private, semi-private, and public employment exchanges; and the long-range planning of public work, so that contracts are let during periods of business depression. Something will now be said of each of these proposals.

Several large corporations have voluntarily introduced unemployment systems in their plants, in order to provide steady work for their employees. Among these systems may be mentioned those of the Dennison Mfg. Co. of Framingham, Massachusetts, the S. C. Johnson Company of Racine, Wisconsin, and the Procter and Gamble Co. of Cincinnati, Ohio.[71] Other private systems have been evolved within establishments through negotiation between management and union workers. Among the latter, the best known are those in force in the Baltimore and Ohio Railway repair shops, and in the needle trades in the clothing centers of Cleveland, Chicago, Cincinnati, Rochester, and New York City.[72] In Chicago, in the men's garment industry alone, over a million dollars is available each year for distribution to unemployed workers.[73] Under all the plans just mentioned, however, the total number of workers benefited is relatively small. Nevertheless, the plans represent the enlightened viewpoint of employers, who hold that industry has the responsibility to make serious efforts to regularize production, and to compensate workers for the time that they lose through no fault of their own.[74]

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[68] National Bureau of Economic Research, *op. cit.*, p. 144.

[69] U. S. Department of Labor, *Monthly Labor Review*, December, 1929, p. 1; see also Children's Bureau, *Unemployment and Child Welfare*, Publication No. 125; Klein, *The Burden of Unemployment*, Chaps. IV–VII.

[70] Cooley, *New Goals in Probation*, New York State Probation Commission, 1926, p. 25.

The second proposal for reducing unemployment is the general introduction of the shorter working day. There is little doubt that if the working day were shortened in industries which now insist on more than 48 hours per week, all workers could be employed more steadily. But this proposal has little immediate practical value as a remedy. The lowest-wage groups lose the most working time through unemployment, and they are also the least able to enforce their demands for a shorter working day.

A third proposal for the reduction of unemployment is the private exchange. The private exchange is an agency conducted on a commission basis, which aims to send men to available jobs. There are about 5,000 such exchanges in the United States. Strange as it may seem, they do not relieve unemployment. Their effect is rather to increase its volume, inasmuch as the revenue of the exchange increases with the number of new placements made. A type of private exchange, however, that has been very successful in placing unemployed men, is the office of the local trade union. For example, when a contractor needs carpenters, painters or plasterers, he can usually secure them without delay from the union offices of these crafts. But here, too, the benefits are limited in scope. Jobs are available only to workers in the organized trades. The unskilled or common laborers, as a class are not unionized and, consequently, cannot participate in the benefits made possible by organization.

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[71] Feldman, *The Regularization of Employment*, pp. 375 *et seq.*

[72] *Survey*, May 15, 1926, p. 244; U. S. Department of Labor, *Monthly Labor Review*, May, 1929, pp. 79 *et seq.*

[73] *Survey, Ibid.*, p. 283.

[74] For description of unemployment systems, see U. S. Department of Labor, *Monthly Labor Review*, April and July, 1924.

Another type of private exchange is the semi-public employment bureau, operated by local branches of fraternal societies and religious organizations. The number of placements effected by such bureaus may appear impressive in local communities; but, in reality, the total number of workers in the country benefited through such agencies is relatively negligible.

Still another form of unemployment bureau is the public employment office. Public employment offices are maintained by twenty State governments in the more important cities in their jurisdictions. These offices fill a public need, but, as a system, they are inadequate to meet the problem, because they are difficult to administer efficiently and, chiefly, because they can do little more than relieve the hardships of unemployment. Among the administrative obstacles may be mentioned the difficulty of excluding inefficient political favorites from the direction of the exchanges, the lack of necessary appropriations, and the inability to coördinate interstate and inter-city needs.[75] The fundamental weakness of public employment-exchanges, as well as those of a private or semi-private character is that they are, at best, only palliatives,—neither attacking, nor being able to attack, the most serious phase of the problem, the regularization of industry.

Fourth, the long-view planning of public work has been suggested as a means of reducing unemployment. This proposal would require the various branches of government—Federal, State, and Municipal—to arrange their programs for the construction of public buildings and improvements in such a way that this work would be carried on at a time when large numbers of men would be out of employment. The central objection to this plan is that the total volume of public work is relatively small, and hence only a small percentage of the unemployed would be benefited. Moreover, the plan is purely a remedial measure. It does not stabilize production and, further, it requires too much transferring of workers from their regular occupations.

All of the plans just reviewed are either of a purely private character or, at most, involve only a modicum of state intervention. They show clearly the futility of both private enterprise, and optional assistance offered by the state. Even the plans in the garment trades, under which the workers and employers contribute jointly to unemployment funds, are little more than interesting beginnings. The program for the prevention of unemployment must be much more comprehensive in scope. It is to be observed, moreover, that the plans in the clothing industry have been introduced under the pressure of strong union organization. On the other hand, the great mass of unskilled laborers in American industries are unorganized and, consequently, unable to compel employers to assume a share of the unemployment burden.

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[75] Federated American Engineering Societies, *Waste in Industry*, p. 280.

The second remedy proposed for the evils of unemployment is the use of governmental power through a system of compulsory insurance. Seven European countries, including Great Britain, Germany, and Austria, are now enforcing compulsory insurance systems; and eight others, among them, Belgium, Denmark, and France, have voluntary state systems.[76] The best known of these plans is that of Great Britain. From 1911 to 1920, only a few major industries were included under the law, notably, the metal-trades workers, building tradesmen, and shipbuilders. In 1920, the law was extended to include all except a few groups, such as farm laborers and domestic servants. The fund for distribution during unemployment is created by the employers, the workers, and the government, in nearly equal shares. Single men and women, married men and women, and boys and girls between the ages of 16 and 18, contribute different amounts according to their status. When a worker is unemployed for six days, he is eligible for out-of-work benefits, which vary according to his classification. A single man receives $3.60 per week, and higher amounts are paid to married men according to the number of their dependents.[77] During the twelve months of 1929, $225,000,000 was paid out in the form of unemployment compensation. Of this amount $82,000,000 was contributed by employers, $71,000,000 by workers, and $72,000,000 by the government.[78] Administration costs consume about ten per cent of the total sum disbursed as benefits each year.

H. The Wisconsin Proposal.—Thus far, none of the American States has passed a compulsory unemployment insurance law, although several, notably Wisconsin, New York, and Massachusetts, have seriously considered such legislation. Widespread attention was attracted by the bill introduced in the Wisconsin Legislature in 1923. This Bill failed of passage by but one vote in the upper house. In view of the unusual interest which it created, its general outlines will be given. Employers were to be required by law to create a mutual insurance fund. They would pay premiums into this fund in proportion to the volume of unemployment in their establishments. Large corporations, which might wish to insure their own risks, were to be permitted to do so either by depositing bonds with the Industrial Commission, or by giving other guarantees. All non-agricultural employees, working for employers of six or more wage-earners, were included under the plan; but all workers receiving more than fifteen hundred dollars per year were excluded. Those out of work on account of strikes or lockouts also formed exceptions. Barring these, and some smaller groups, the Bill proposed to require employers to pay their regular adult workers, both men and women, one dollar a day for a period of six weeks in each year, beginning with the third day of involuntary unemployment. Fifty cents a day was to be paid to boys and girls between the ages of 16 and 18. It is to be observed that the Bill provided that the fund to be used for the payment of out-of-work benefits was to be maintained by employers alone, without any contribution from workers or the State. In this very essential feature, the Wisconsin plan differed from the plans now operating in European countries, which require payments from workers while they are at work.[79]

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[76] U. S. Department of Labor, *Handbook of Labor Statistics*, 1929, p. 719.

[77] For an excellent summary of the British Unemployment Insurance Act see U. S. Department of Labor, *Handbook of Labor Statistics*, Bulletin No. 491, pp. 724–725.

[78] Compiled from the official figures published in the *Ministry of Labour Gazette*, London, February, 1929–January, 1930.

The theory underlying the Wisconsin plan is: if employers are penalized for not regularizing production, they will strive to keep their plants operating continuously, in order to avoid the payment of unemployment benefits. Substantially the same theory was the basis of the accident compensation legislation of 1911. It was calculated that employers would spend more money on prevention if accidents were made costly to them. While it is probably true that accident totals show an increase—a fact attributable mainly to the increasing number and complexity of dangerous machine processes—nevertheless, the relative number of accidents is decreasing, and largely because of the "safety first" movement, which was set in motion after the passage of the accident compensation laws of 1911.

From an ethical standpoint the theory of prevention, on which the Wisconsin plant rests, is entirely sound. The evil of unemployment is one which neither the worker nor the taxpayer can prevent. Employers, however, are in a position to reduce unemployment to a very considerable degree. One authority writes: "If one seeks among the elements in any particular plant that disturb continuous employment for a factor present in all, there is one common condition that approaches nearest to the technical definition of a cause. This almost invariable antecedent is the astonishing indifference of industry in the past to the human problem involved in the security of irregular employment. Almost every investigation concerning unemployment has pointed to this defect in industrial administration. . . . The outstanding fact about all the firms which have regularized work is that continuity of employment is their guiding principle in conducting business.''[80] The premiums to be paid into the unemployment insurance fund just outlined, are not necessarily penalties; rather, they are incentives for management to stabilize employment. However they may be considered, they must result in a more continuous operation of industry and in more regular employment for workers.

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[79] Commons and Andrews, *Principles of Labor Legislation*, rev. ed., pp. 483–493; Forsberg, *Unemployment Insurance*, pp. 163 *et seq.*

A question arises in this connection. Some wage-earners, however small their number, will be out of work even after employers have used all reasonable efforts to stabilize production. What ethical claim have such wage-earners to even a small compensation while they are out of work? A brief study of modern industrial methods will show that the ethical claim of these men and women to compensation while they are involuntarily unemployed cannot be questioned. Industry has called them into its service; it uses them throughout the year as it needs them; and they stand ready to answer its call during busy and slack seasons alike.

Solely from a market standpoint, residual workers may be likened to the fruit and vegetables, or other produce that remain unsold on a grocer's stand at the close of a business day. The loss incurred by these unsold goods is not borne by the grocer. In the morning he estimates the probable losses of the day and adds them to the price of the goods. Every buyer throughout the day, is, therefore, compelled to pay for a part of the goods that he actually does not purchase, and all buyers taken together pay for all the unbought residue that remains at night.

The principle of requiring buyers to pay for the residuum of unbought goods is a recognized practice of modern business. For example, when a man buys an overcoat, he helps to defray the loss on all overcoats left on the merchant's hands at the end of the season. When he uses a taxicab, his charge is made high enough to help pay for all the cabs that are unrented. In a hotel, his room charge helps to pay for the vacant rooms in the hotel. The same rule is observed in the purchase of all commodities: Every buyer must bear a portion of the loss chargeable to the unused residuum. There is no valid reason why this principle should not be applied to the residuum of able-bodied workers required by industry, and who stand ready to work when industry calls them. In fact, a very weighty consideration demands that they be compensated for the time lost through no fault of their own. As their wages are ordinarily their sole source of livelihood, their right to an uninterrupted wage is, to all intents and purposes, identical with their right to life. Moreover, the industrious unemployed have a right to a more liberal compensation than that provided in the Wisconsin proposal. In short, if their income throughout the year is not sufficiently high, they are entitled to unemployment compensation sufficient to enable them to maintain the same standards when they are involuntarily unemployed as when they are working.

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[80] Feldman, *The Regularization of Employment*, p. 63; see also National Industrial Conference Board, Report No. 51; National Bureau of Economic Research, *Employment, Hours and Earnings in Prosperity and Depression in the United States, 1920–1922*, p. 5.

It is to be repeated, however, that relief during unemployment is only a secondary consideration in the Wisconsin proposal. Its principal aim is prevention. Prevention is to be effected by imposing a higher insurance premium on the indifferent employer; a lower premium on the employer who keeps his plant running with fair regularity; and none at all on the employer who operates throughout the year. Some enlightened employers have voluntarily assumed the incentive of disbursing out-of-work benefits, by agreeing to pay their employees a fixed percentage of their regular wage during periods of unemployment. There is apparently little hope, however, that the great mass of employers in the United States will, of their own accord, initiate similar systems in their establishments. Hence, the state is merely protecting the rights of the weaker classes when it requires employers, who alone are able to reduce unemployment, to pay their employees while involuntarily idle.

I. Summary.—The foregoing discussion leads to two general conclusions: (1) The evil of unemployment is so widespread, and has been met so inadequately by private initiative, that governmental intervention through some form of compulsory unemployment insurance is imperative. (2) The entire financial burden, both of preventing unemployment, and of supporting able-bodied and industrious workers who cannot be employed uninterruptedly, should be borne by industry.

The first of these conclusions is that the state should intervene to prevent unemployment. This is a legitimate exercise of state power in promoting public welfare. Public welfare demands that those who are able, but unwilling, to remove the hindrances that shut off large numbers from a reasonable living, should be compelled to do so by the state. It should not be assumed, however, that the actual prevention of unemployment is an easy task. The device of insurance is a practical remedy for many industrial evils, but it cannot be used indiscriminately. Its application to unemployment is peculiarly difficult, because of the unpredictable character of the risks. Nevertheless, the experience of individual firms in the United States and in European countries shows that, when serious thought and effort are applied to the problem, the regularization of employment can be effected to a very large extent through the medium of insurance.

The second conclusion is that the entire cost of unemployment prevention and relief should be placed upon industry. This principle is far from being accepted universally at the present time. Nevertheless, it is an elementary dictate of justice and humanity. The general theory on which the structure of modern business rests is that profits should be paid to those who assume necessary risks. So long as profits are not disproportionately greater than risks assumed, this theory is sanctioned by justice. In everyday business life, the successful risk-taker is permitted to take profits without further question. A corporation, for example, takes or earns profits because it undergoes hazards in investing its stockholders' money in an uncertain enterprise. True, some businesses fail. Nevertheless, were one to examine a chart, showing the shares of the national dividend that go to the four classes of income-receivers (landowners, wage-earners, investors, and enterprisers), one would discover that risk-taking is well compensated.

According to Professor King, the four income classes receive the following percentages of the total national income: wages and salaries, 46.9; interest, 16.8; rent, 8.8; and profits, 27.5.[81] In its report to the Senate on June 16, 1926, the Federal Trade Commission stated that the employed personnel of the United States receive 55 per cent of the annual dividend in the form of wages, salaries, and other remuneration for work; and capital and enterprise receive the remaining 45 per cent in profits, rent, and interest.[82] Of this 45 per cent approximately one-third is received as payment for the assumption of risk. Modern industry, on the other hand, makes no payment to the low-wage classes for the risk which they assume, of being without wages during a considerable part of the year. This is an injustice which could be corrected to an extent, at least, by unemployment insurance.

In addition, it should be pointed out that a part of the wages received by workers in the higher wage classes is considered as a payment to tide them over periods when they are compelled to be idle. But low-wage earners are not in this fortunate condition. Their annual earnings are insufficient for their decent support throughout the year. This is not only inequitable, but constitutes a standing indictment of present methods of commodity distribution. Mr. B. Seebohm Rowntree, an English employer, says admirably:

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[81] King, *The Wealth and Income of the People of the United States,* p. 160.
[82] 69th Congress, 1st Session, Senate Document No. 126, p. 12.

> Under a capitalist system of industry the capitalist in fact says to the workers: 'Let us coöperate in an industrial enterprise—I will find the necessary capital and you will provide the labor. The first charge on our joint enterprise shall be the payment to you of wages and salaries in accordance with the current scale. Then will follow the payment of all other charges incidental to the enterprise and, after all these have been paid, if there is anything over, I will take it as payment for the contribution I have made in finding the capital.' In a sentence, this means: 'I will take the risks of industry, and, because I take the risks, I am justified in claiming the profits.' But one of the grave risks of industry is unemployment in periods of trade depression, and if this risk is borne by the workers, the capitalist is not fulfilling his part of the bargain, and one of the main defenses of the capitalist system disappears.[83]

Considerations of justice and public welfare demand, therefore, that serious efforts be made to regularize production, and that compensation be made to workers who are involuntarily unemployed. From the foregoing it is evident that one of the important workable means of meeting the demands of justice, is state intervention through some form of compulsory unemployment insurance.

IV. FAMILY DEPENDENCY THROUGH LOSS OF FATHER

A. Introduction.—The problem of family dependency resulting from the loss of the father, calls for a remedy different from that proposed for accidents, sickness, and unemployment. Compulsory insurance has been applied to the field of industrial accidents in the United States for over eighteen years, and has yielded satisfactory results. The insurance principle, although not yet embodied in any American law covering sickness or unemployment, is applicable also to these problems, as is evident from the experience of foreign industrial nations. But the problem of family dependency, resulting from the death of the head of the family, is of a different nature from that of sickness and unemployment and, therefore, requires a different form of treatment. Briefly, the only feasible solution for the relief of dependent families is through direct payments made from the public treasury. Hence, in this section the term ''state assistance'' is used, rather than ''state intervention.''

B. Extent of Problem.—It is necessary at the outset to estimate the number of dependent fatherless families in the United States. Data on this question are exceedingly limited and fragmentary. There were nearly 4,000,000 widows in the United States in 1920, approximately 11 per cent of all women over 15 years of age. The majority of these widows are financially able to support themselves without assistance from outside sources. In Pennsylvania, less than one per cent of the 317,000 widows receive widows' pensions, and in New York the ratio is less than three per cent.[84] These figures, however, do not include all the widows in these States who are living at or below the level of dependency. There are large numbers of widowed mothers who either are legally ineligible for the widows' pension, or who seek other forms of assistance. On the basis of the Massachusetts and New York data, and of studies made in other States, probably between 80,000 and 100,000 mothers in the entire country can qualify for pensions. This general estimate gives only a very imperfect picture of family dependence. Many widows, rather than accept public or quasi-public aid, place their children in day-nurseries or with relatives and neighbors, and go out to work. Others draw upon insurance money, or supplement the family income with the earnings of older boys and girls.

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[83] League of Nations, *International Labour Review*, Vol. 4, No. 3, p. 463.

Furthermore, large numbers of fatherless families are supported temporarily or permanently by public or private charity. This is clearly shown by the records of relief agencies. From 1916–1922, widowhood, exclusive of desertion and imprisonment, accounted for from one-sixth to one-fourth of all the cases receiving major assistance from the United Charities of Chicago.[85] In Pennsylvania, widows and the wives of husbands confined in institutions for the mentally ill, formed 55 per cent of all the cases receiving outdoor relief in 1925.[86]

The main interest in the question of fatherless, needy families centres around the children, especially if they are very young. Here again, information as to the extent of the problem is scanty and indefinite. It is estimated that there are not less than 200,000 children who are receiving public aid in their homes under existing mothers' pension laws, and that the total number to whom aid should be granted is close to 400,000.[87] But these estimates based on mothers' pension laws form an inadequate index of the entire problem. The various State laws are highly restrictive in their provisions, and hence the number of mothers and children who can qualify for assistance is comparatively small. Moreover, as stated above, many widows with children prefer to receive aid from relatives rather than from a mothers' pension. The number of children who are dependent because of family disability is consequently much in excess of 400,000.

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[84] U. S. Department of Labor, Children's Bureau, Publication No. 109, p. 26.

[85] *United Charities of Chicago*, Report, 1922, p. 35.

[86] Commonwealth of Pennsylvania, *Poor Relief in Pennsylvania, A Statewide Survey*, 1925, p. 56.

[87] United States Department of Labor, Children's Bureau, Publication No. 162, revised, 1928, p. 21.

C. Background of Problem.—It is more correct to speak of the factors in the background of family dependency than of its causes. As a rule, these factors operate reciprocally, and it is only in exceptional cases that a single cause is responsible for the dependency of the family. To illustrate, one study indicates that industrial accidents are the cause of the father's death in about 10 per cent of all dependent families.[88] Nevertheless, the dependency of some of these families was partially attributable to other causes, such as the lack of savings or insurance at the time of the father's death. As a rule dependency in a family, therefore, cannot be ascribed to any one cause. It is due usually to several causes, each influencing the other.

It will be useful to indicate some of the more important elements in the background of the problem of family dependency resulting from the death or absence of the father. First, it has been found that, as a rule, the economic status of the family was low at the time of the father's death. The number of such quasi-dependent families is increased by the excessive proportion of foreign-born mothers who have lost their husbands.[89] This angle of the problem can be readily understood. Immigrant fathers are employed in large numbers in the unskilled and lowest-wage occupations, with the result that the death of the bread-winner finds the family without any provision for its further support. Secondly, a very high percentage of the mothers of dependent children work for wages either away from, or in their homes. In an intensive study of 728 wage-earning mothers in the industrial districts of Philadelphia, it was found that 22 per cent owed their initial appearance in industry to the death of their husbands; 13 per cent, to desertion by their husbands; and 11 per cent, to non-support.[90] Other studies also show a very high proportion of mothers—over one-half—gainfully employed.[91] These data indicate the economic dependence of the family at the time of the father's death, or shortly after, when savings are consumed. What is equally significant, the employment of mothers creates additional problems, such as insubordination and delinquency among young children because of their mothers' absence from the home.

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[88] U. S. Department of Labor, Children's Bureau, Publication No. 118, p. 142.

[89] *Ibid.*

[90] Hughes, *Mothers in Industry*, p. 22.

[91] U. S. Department of Labor, Children's Bureau, Publication No. 118, pp. 18–19.

D. Is Family Dependency Preventable?—The varied elements in the problem under consideration raise the larger question as to whether it is possible to reduce the volume of dependency caused by the death of the father. Obviously, it is impossible to prevent all widowhood. Nevertheless, an analysis of the available data shows that the dependent condition of many families is unnecessary and with proper precautions, could have been avoided. For example, the death of the father through preventable sickness often leaves the widow and children destitute. The number of dependent families due to this cause could be greatly reduced through the development of health centres and greater opportunity for medical service, such as that provided under the English health insurance system. The number could be reduced also by a further extension of accident-prevention work. Finally, the payment to all underpaid workers of a wage high enough to permit saving for future needs would enable them to purchase adequate insurance against dependency in the event of their death. These are the more important measures necessary to prevent suffering among widowed mothers and their children.

E. Remedial Methods.—Remedial methods for meeting existing conditions are mainly of two kinds: private and governmental. Private methods include assistance from relatives, friends, and private relief-bureaus; and the establishment of day-nurseries in which wage-earning mothers can place their small children. But these methods are either inadequate or socially undesirable. Very often dependent mothers and children cannot rely on relatives for needful support, inasmuch as the latter are, as a rule, persons of modest means, for whom charitable outlays involve positive hardships. Relief from private bureaus is likewise inadequate, because these agencies cannot give sufficient aid to all needy fatherless families. In addition, the burden of such relief should be carried by the entire community, and not only by charitably inclined individuals who contribute to private funds or bureaus. Again, the system of day-nurseries, while it relieves need temporarily, is socially undesirable, since it deprives the children of the care and supervision of their mothers throughout the working day. Finally, since the system tends to increase the number of gainfully employed women, it necessarily adds to the number of men workers who are out of employment.

The second means designed for the care of families which are without the support of a father, is state assistance through a system of mothers' pensions. The mothers' pension plan is a form of outdoor relief, which aims to prevent the breaking up of the home and the placing of minor children in institutions.[92] Forty-four States have passed laws establishing gratuitous systems of mothers' pensions. In their main outlines, these laws are alike. That of Minnesota may be taken as typical. It provides that any widowed mother whose personal property, in addition to her home and household goods, does not exceed $100, may receive from the general treasury of the State, or County, $20 per month for one child under sixteen years of age, and $15 for each additional child. The term "widowed mother" includes widows, deserted mothers, stepmothers, grandmothers, and mothers whose husbands are in hospitals or penal institutions.[93] Considerable latitude is allowed the court in applying the law. It is to be observed that this law, which is substantially the same as those in other States, is a form of state endowment, and that the pension is paid out of the general tax funds without previous contributions from those who receive the pension.

The mothers' pension system has proved to be a very successful method of coping with the problem of family dependency. The law operates to the benefit of both the family and the community. It preserves the self-respect of the mother, as she looks upon the pension as a payment for public service.[94] Moreover, the law preserves the normal relationship between mother and children by keeping them together. The institution or orphan asylum, even when conducted under ideal conditions, is a poor substitute for the care and attention of the mother. Society, too, is benefited by the plan. Juvenile delinquency, which is disproportionately high among children of broken homes, is found to be practically negligible among children whose mothers receive a State pension. The beneficial results that have followed the passage of the law have fully justified its continuance and extension. Mothers' pension legislation is a further illustration of the duty of the state to intervene on behalf of a part of the population, when private initiative is demonstrably inadequate to meet the problem.

V. OLD-AGE DEPENDENCY

A. Extent.—The problem of old age dependency can be studied best by dividing all persons over 65 years of age into three groups. The first group is the small quota of the well-to-do who are financially and socially secure. The second group is much larger, embracing about one-third of all persons over 65 years of age. These individuals are nominally independent, but in reality dependent, as they lack the personal means of self-support, and are obliged to rely for their livelihood on children or other relatives. If they are without kindred, these aged persons frequently endure great privation rather than either apply for public or private charity, or seek admission to a public almshouse. The third group includes those who are either receiving aid from public or private relief organizations, or who are inmates of poor asylums, hospitals, or privately maintained homes for the aged.[95] It is only the second and third groups that come into consideration here.

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[92] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 370, p. 16.

[93] U. S. Department of Labor, Children's Bureau, Chart No. 3, 1929.

[94] See Administration of Mothers' Aid in Ten Localities, U. S. Children's Bureau, Publication No. 184, p. 5.

The most comprehensive study of old age dependency that has yet been made is that of the Old Age Commission of Massachusetts. The Commission reports that there are 225,000 persons 65 years of age and over in Massachusetts, and 133,000 persons 70 years of age and over. Of those 65 years and over, 84 per cent are classed as ''non-dependent,'' although many of them are supported by ''children or other relatives or by friends.''[96] Over 7 per cent are aided by organized charity or are under custodial care. The remainder are public pensioners, receiving monthly allowances for military service, or as superannuated public employees. Of all the persons 70 years of age and over, nine per cent are aided by organized charity, or are under custodial care. On the basis of this survey, and of other careful studies, such as that made by Dr. John O'Grady in Ohio in 1918, it can be estimated conservatively that there are between one and one-half and two million persons in the United States, 65 years of age and over, who are receiving public or private charity. This is approximately one-third of all persons over the age of 65.[97]

B. Background of the Problem.—The first fact to be observed in the study of old age dependency is that the span of life is increasing with each decade. Each census since 1880 has shown an increased proportion of the population who live 65 years or longer. According to Louis I. Dublin, Statistician of the Metropolitan Life Insurance Company, the expectation of life has risen eight years between 1901 and 1928.[98] With the lengthening of life, however, there has been an increased inability to provide for old age.

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[95] Epstein, *Facing Old Age*, p. 22.
[96] Senate Commission, Massachusetts, Report on Old Age Pensions, 1925, p. 40.
[97] *Penniless Old Age*, Pamphlet, p. 19.
[98] *Health and Wealth*, p. 11.

It is difficult to classify the causes of unprovided old age, but the primary causes may be listed as economic, social, physical, and personal. In a detailed study of 717 aged clients of the Boston social agencies in 1925, the following causes were found to be operative. Economic causes were responsible for 47.4 per cent of the cases: and included low wages (33.7), unwise investment (9.2) and business failure (4.5). Social causes accounted for 27.2 per cent: and included death of supporter (19.8), care of dependents (4.2) and worthless spouse(3.2). Physical causes were found in 17.1 per cent: and included incapacity of clients (10.7), incapacity of supporter (4.3) and exceptional longevity (2.1). Personal causes explained 7.7 per cent: and included extravagance (3.8), intemperance (3.2) and shiftlessness (.7). Catastrophes were the cause in .6 per cent.[99] The author of this study states that a fair sample of the dependent aged from both poor and more comfortable neighborhoods "would probably show that from a third to a half had earned insufficient wages to *permit* a surplus; that from five to ten per cent had *wasted* their surplus, and that the remainder had *lost* it through no fault of their own."

The study of the aged poor made in San Francisco in 1925 is less specific in assigning causes for old age dependency. It reports, however: "The impressions of our investigators permit the statement that in most of the cases reviewed in this study the aged dependents seem less personally at fault than the victims of an unremitting economic pressure or of a series of calamities."[100]

One of the outstanding economic factors in the problem of old age dependency is the marked shortening of the wage-earning life of industrial workers. Dr. John A. Lapp writes: "It does not require statistical proof, though such proof is abundant, to show that in industry today, the aged worker is not wanted. The dead line of employment is being pushed down steadily. It long since passed below fifty-five. It is in many industries approaching forty-five."[101] In his study of old age in Ohio in 1918, Dr. John O'Grady found that in six foundries employing 500 molders, there were only 13 workers over fifty years of age. Ten of these men were engaged at light bench-molding and only three at heavy floor-molding.[102] The census reports on occupations show that even in trades requiring far less physical strength than molding, relatively few men over fifty years of age are employed. It should be added that some employers recognize their obligations toward aged wage-earners who have spent long years in their service.[103] Thus in some establishments superannuated workers are pensioned, or given employment in an "old age" department of the plant, where the work requires less physical strength and less careful craftsmanship.[104] The problem of old age dependency among wage-earners stands out in bold relief when it is recalled that the wage-earner's income begins to fall off sharply when he reaches 45, whereas that of the professional man (lawyer, physician, or engineer) usually begins to rise after that age.

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[99] Lucille Eaves, *Aged Clients of Boston Social Agencies*, Report No. III, 1925, pp. 52–56.

[100] University of California Publications in Economics, Vol. V, No. 1, p. 47; see also *Old Age Dependency*, A Study of the Care given to Needy Aged in California, made for the State Legislature of California, 1928, p. 39.

[101] *American Labor Legislation Review*, March, 1925, p. 23; also see *Old Age at Fifty*, by Secretary of Labor James J. Davis, *Monthly Labor Review*, June 11, 1928.

[102] Pamphlet, *op. cit.*, p. 13.

C. Means of Caring for the Aged.—All of the aged in the community are cared for in one or more of the following ways: first, through thrift and savings; secondly, by children, relatives, and friends; thirdly, through private benevolence; fourthly, by pensions; and fifthly, in almshouses and through outdoor relief.[105]

A broad and enlightened social policy would envisage the problem of old age as it projects itself into the future, and aim at increasing the number of aged persons in the first class, and at reducing the number in the other four. This could be effected in a very great measure by increasing the wages of workers during the years when they are physically able to work. Whether this humane and far-sighted policy will be adopted, the future alone can tell. At all events, the immediate problem is to devise the best means of caring for the large number of aged persons who are now dependent or quasi-dependent.

Existing methods of caring for the aged are of two types: either (1) of a purely private character, or (2) of a purely governmental character.

Private plans may be grouped under three headings: (a) pension systems, (b) outdoor relief, and (c) institutional care. Governmental plans may also be grouped under three headings: (a) institutional care, (b) County and State outdoor relief, and (c) State pensions.

1. *Private Care.*—(*a*) Private old age pension plans are in operation in many of the large corporations in the United States. According to the National Industrial Conference Board there are 245 establishments which have pension plans covering nearly 3,000,000 employees.[106] These plans are mainly of two kinds: contributory, in which the employees and the

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[103] Pennsylvania Old Age Commission, *Old Age Pensions in Industry*, 1926.

[104] O'Grady, *Penniless Old Age*, Pamphlet, p. 15; see also *An Introduction to Social Work*, pp. 250–252.

[105] Lapp, *American Labor Legislation Review*, March, 1925, p. 25.

[106] *Industrial Pensions in the United States*, p. 5.

firm maintain the fund jointly; and non-contributory, in which the firm alone maintains the fund.[107]

The underlying purpose of industrial firms in establishing old age pension plans is generally humanitarian. But other motives also play a part. The National Industrial Conference Board says:

> Unquestionably humanitarian impulses play a part in the establishment and operation of a considerable number of plans. . . . Benevolence on its own account, however, cannot long be indulged by the management of a business, particularly when it begins to involve substantial expenditures. To be a legitimate charge on the corporation's income, it must be subordinated to other objects—such as are at least of potential advantage to the business.[108]

A carefully laid-out plan can be made to yield financial profits to the industry. The pension system reduces labor turnover, and by taking away or lessening the power of the strike, obviates or checks the growth of trade unionism. As a rule, the benefits of the system are largely on the side of the management. The pension contract which the worker signs, is drawn up in such terms that he cannot enforce its provisions in court, in the event that he becomes incapacitated because of old age. The pension benefits are declared to be pure gratuities from the employer, and hence can be revoked or discontinued at his option.[109] It is clear, therefore, that such systems may fail in the most essential purpose of an old age plan, —to guarantee the worker a set amount of income when he is no longer able to work.[110]

Another form of old age pension is that maintained by many trade unions, notably the International Typographical Union. This union not only pensions its aged members, but also maintains a ''printers' home'' for the incapacitated. The benefits of such plans are naturally very limited, as only the members of the craft are eligible for assistance or support. Moreover, as a solution for the entire problem of aged dependency, the trade-union plan is impracticable. Only the strongly organized craftsmen, who, incidentally, are, as a rule, the better paid, are financially able to contribute to old age funds; whereas, the unorganized and the unskilled are unable to do so, and hence are left without protection in old age. The same difficulty is present in the average contributory insurance plan. Low-income workers do not possess a surplus to enable them to purchase even the cheaper policies for old age endowments, as their earnings are insufficient to provide even the urgent necessities of life. The entire system of private pensions is, therefore, inadequate to meet the needs of the great mass of wage-earners who are facing destitution in old age.

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[107] *Ibid.*, p. 15.

[108] *Op. cit.*, p. 24.

[109] U. S. Department of Labor, *Monthly Labor Review*, January, 1926, p. 52.

[110] For criticism to the effect that the private industrial pension system is unsatisfactory both to company and worker, see Dr. Irving Clark in the *Journal of Industrial Hygiene*, January, 1929.

(*b*) Outdoor relief is a second form of private care for the dependent aged. The object of this method of relief is to allow aged persons to remain in their homes, instead of removing them to institutions. Food, rent, clothing, fuel, and medical assistance are provided for them either by private relief-agencies, or by children, relatives, and friends. Praiseworthy and necessary as such activities are, they are unsatisfactory as an established social policy. They break down the self-respect of deserving old persons. Rather than submit to the humiliation of accepting aid from a relief-agency, many of these persons endure intense suffering and want. Again, when outdoor relief to aged persons is provided by their own children, the grandchildren are often deprived of necessary food, clothing, and schooling. Private outdoor relief, therefore, should not be considered seriously as an important factor in the care of the needy aged.

(*c*) The third form of private relief is the private pay-home for the aged. There are 1,300 of these homes in the United States, maintained by religious bodies, fraternal organizations, and trade unions.[111] Much splendid work has been accomplished by the promoters and attendants in these institutions. Nevertheless, it must be recognized that their activities are very limited in scope, inasmuch as they reach only a relatively small number of the aged poor, probably not over 100,000. Furthermore, even in the homes in charge of religious orders, who care for the aged without salary, the cost of maintaining the home places a heavy burden on the charitably inclined in the community. In homes where the attendants and nurses are salaried, quite clearly larger amounts of voluntary contributions are required. While there is much to be commended in the system of private pay-homes for the aged, nevertheless, the financing of the homes is a serious problem. But what is far more important, the private home system cannot reach the great mass of dependent aged.

2. *Governmental Care.*—Plans of governmental aid for the care of aged dependents include institutional care, County and State outdoor relief, and State pensions.

(*a*) By public "institutional care" is meant the maintenance of the aged in poor-houses, asylums and infirmaries at public expense. Because of the helplessness and chronic illness that accompany old age, some institutional care will probably always be necessary. This is especially true in the case of sick and helpless old persons who are without children or relatives. It is quite different with able-bodied men and women who have passed the age of sixty-five. The number of these individuals now compelled to go to poor-houses, can and should be greatly reduced. This conviction is being accepted gradually by the general public. It is coming to be recognized that many deserving old persons are obliged to seek refuge in a poor-house, whereas their life-long services to society entitle them to a better lot in their declining years. The average poor-house, even at its best, finds few defenders. As a substitute, it has been proposed that the State issue cash allowances, or pensions, to needy aged persons in their homes. The pension system will be explained at greater length in paragraph (*c*).

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[111] U. S. Department of Labor, *Monthly Labor Review*, July, 1929, p. 1; see also April, 1929.

(*b*) The second type of public care for the aged is outdoor relief. Of all public-relief agencies now in operation, this form of assistance reaches the largest number of persons. The work is generally carried on by a county poor-commissioner, who places groceries, fuel, and clothing in the homes of the aged. Such relief is, in reality, a direct pension or gratuity paid out of the public treasury. But it has a pauperizing effect, because it comes from a public almoner. The deserving aged should be spared this humiliation in the same way that dependent children are spared the stigma of public relief through the mothers' pension system. It is this newer conception of giving relief that has led to the movement for old age pensions.

(*c*) A third form of State assistance is the old age pension. An old age pension is a sum of money paid out of the public treasury to needy old persons monthly, or at other regular intervals. Since 1923, ten States and one Territory,—California, Colorado, Kentucky, Maryland, Minnesota, Montana, Nevada, Utah, Wisconsin, Wyoming, and Alaska,—have passed non-contributory old age pension laws. These laws are similar in their main provisions.[112] Those of Nevada, Montana, and Wisconsin are typical. Applicants for pensions in Nevada, must be 65 years of age or over, and in Montana and Wisconsin, 70 years or over. According to the Wisconsin and Nevada laws, a pension is not payable to a person the value of whose property, including that of his spouse, exceeds $3,000. The Montana law specifies no property-value limit, but an applicant with an income over $300 per year is not eligible for a pension. The amount of the pension in Wisconsin may not exceed a sum which, when added to the income of the applicant, will exceed a total of $1 per day. The Montana law sets a flat maximum of $25 per month. Pensions are also paid to the indigent aged in Great Britain, France, Australia, New Zealand, Canada, and thirty-two other foreign countries. In fact, there is no important European country without some form of voluntary or compulsory old age insurance.[113]

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[112] *American Labor Legislation Review*, June, 1929.

Of the various types of public aid to the needy aged who are in good health, the pension system is the most desirable. It is clearly a more humane method of caring for worthy old persons than is any other form of relief. Its prime purpose is to keep the home of aged persons intact. There are many old couples with only a very small income, who would not be obliged to ''break up'' their homes and go to public institutions if they were given a supplementary grant by the State. Even in the case of old persons who are living alone, a small allowance would in many instances be sufficient to save them from the dreaded poor-house.

It is sometimes objected that the pension will discourage habits of thrift and industry, and thereby increase the number of dependent aged. This result would doubtless follow, if the size of the pension were fairly large. As a matter of fact, the amount of the pension is extremely small, and cannot be an important factor in dissuading persons of fairly comfortable incomes from providing for the future. So far as persons of very low incomes are concerned, the objection is entirely without foundation. At the present time, the great mass of unskilled workers are receiving wages insufficient for their immediate needs, to say nothing of caring for the future. It is idle, if not a mockery, to speak of discouraging habits of saving in this group of the population.

The influence of the pension system on the number of aged persons seeking relief, may be seen in the experience of Great Britain. The English old age pension law went into effect in 1909. Since then the number of aged persons receiving indoor and outdoor relief has greatly decreased, although the yearly increase in the number of pensioners is much greater than the decrease in the number of those receiving indoor and outdoor relief.[114] This, however, is not an unexpected turn of affairs. Naturally, aid received in the form of a pension will attract many deserving persons who would shrink from seeking either public assistance or admittance to a poor-asylum. Moreover, the added cost to the community is probably offset by the greater economies of the pension system. The Old Age

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[113] *Survey,* May 15, 1926, p. 242; U. S. Department of Labor, *Monthly Labor Review,* March, 1929, pp. 33 *et seq.*, Bureau of Labor Statistics, Bulletin No. 489.

[114] U. S. Department of Labor, *Monthly Labor Review,* August, 1927.

Commission of Pennsylvania estimates that with a considerably smaller expenditure of money than is required to maintain the almshouses of the State, three times as many aged persons as are cared for in almshouses could be provided for by the pension plan.[115]

The foregoing discussion of old age dependency may be summarized as follows. Private initiative has failed to provide proper care for a numerous section of the population, consisting of the deserving aged who are in want. Therefore, governmental intervention is necessary. The dependent aged may be divided into two main groups: those who are helpless and bedridden; and those who are vigorous in mind and body. Manifestly, the first group requires hospitalization, which, in the absence of relatives, must be provided by the state. The needs of the second group can be met best through a system of old age pensions. This system is more meritorious than any other plan of state assistance, both from the standpoint of the aged themselves, and that of the community.

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FAMILY DEPENDENCY THROUGH LOSS OF FATHER:

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QUESTIONS FOR REVIEW

1. What is meant by the term "economic insecurity"?
2. What are the five main risks that make economic life insecure?
3. Define insurance.
4. Give the various means by which a person may be insured.
5. Define social insurance.
6. What is state assistance?
7. Show the difference between social insurance and state assistance.
8. Give the latest data as to the extent of accidents. (May be secured from the Bureau of Labor Statistics, Washington, D. C.)
9. What are the causes of industrial accidents?
10. What are the objections to dealing socially with accidents?
11. How can accidents be prevented? What part may the state play successfully in the program?
12. Are accidents increasing or decreasing?
13. Define the term "compensation for industrial accidents."
14. Define and explain "rehabilitation."
15. What was the system of employers' liability? Explain how the fellow servant rule, the contributory negligence rule, and the assumption of risk rule kept workers from compensation.
16. Explain the place and function of workmen's compensation laws. What is the extent of such laws in the United States?
17. What benefits do workmen's compensation laws provide for injured workers?
18. What is the estimated annual loss from sickness? Of what items does the loss consist?
19. Outline the causes of sickness.
20. Why is the sickness rate much higher among low-wage workers than among those with comfortable incomes?
21. How are the burdens of sickness now borne?
22. Explain the theory of health insurance.
23. Outline the English health insurance system.
24. What plans have been used in the United States to carry the burden of sickness?

25. Why have European countries enacted more social legislation than the United States?
26. What are the causes of unemployment?
27. When is a person really unemployed?
28. Is the worker responsible to any great degree for unemployment?
29. Why should unemployment be regarded as an industrial risk?
30. Define the various kinds of unemployment.
31. How may the extent of unemployment be measured?
32. What are the social effects of unemployment?
33. Outline all of the methods for the prevention and handling of the problem.
34. Will the reduction of the working week help to reduce unemployment?
35. Explain how unemployment insurance is organized?
36. What is the essential difference between the British unemployment insurance system and that considered by the Legislature of Wisconsin?
37. Who should bear the burden of unemployment? Who bears it now?
38. What are the causes of family dependency? What is the extent of family dependency in the United States?
39. How are dependent families provided for?
40. Is family dependency preventable? How?
41. What are mothers' pensions? Explain the system of workers' pensions.
42. What are the causes of old age dependency?
43. What is the estimated extent of old age dependency in the United States?
44. What are the present means of caring for the aged?
45. Explain the old age pension system.

CHAPTER XII

The State in Its Relation to Other States

I. NEW CONDITIONS

A. Evidence of Greater Interdependence of Nations—B. Good and Bad Effects

II. NATIONALISM AND INTERNATIONALISM

A. Nationalism, Its Various Meanings—B. Sane Nationalism or Patriotism—C. Internationalism, True and False

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A. Arbitration in the Middle Ages—B. The Hague Conferences—C. The League of Nations—D. The World Court

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A. Theory of a World Association—B. Two Proposals: A World State and a World Association—C. A World Association Necessary for World Welfare

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A. Enforcing International Justice—B. Promoting International Welfare

VI. WAR AND ITS PROBLEMS

A. The Cost of War—B. Two Indictments of War—C. Two Extreme Positions Regarding War—D. Conditions for a Just War—E. Disarmament—F. The Outlawry of War

VII. PEACE AND ITS PROMOTION

A. Education—B. International Agencies for Maintaining Peace

I. NEW CONDITIONS

There are nearly nineteen hundred million human beings on earth. As a vast family, they live closer together than did their forbears in any preceding generation. This greater proximity of peoples is a distinctly modern development due chiefly to the manifold uses to which steam and electricity have been put to serve human needs. The various methods of sending messages are especially deserving of consideration,—the telephone, telegraph, ocean cable, radio, and television. When one recalls that in the middle of the nineteenth century it required nearly three months to carry a letter from France to the United States, whereas today persons in Paris speak directly with those in Chicago, one realizes the force of such expressions as, "the closeness of the nations to one another" and "the shrinkage of the modern world." The instantaneous communication of information is, of course, only one of the factors which bring widely separated nations close together. Others readily come to mind,—rail, ocean, and air transportation. These are responsible for the tremendous increase in the exchange of goods among peoples, the actual movement of persons from country to country, and the resulting interest of each nation in every other.

A. Evidence of Greater Interdependence of Nations.—It may be well to indicate some of the ways in which the peoples of the various nations are bound together, and made to feel their mutual dependence.

First in importance is international trade. The value of the imports and exports of the principal countries of the world in 1927 was over 65 billion dollars.[1] Principally because of quantity production, all the industrial nations tend to produce more goods than their home markets can absorb. Consequently, they must seek to maintain profitable markets abroad. In some instances, the very livelihood of the home population depends on foreign markets. This is illustrated especially in the case of Great Britain. World trade operates in an endless chain. For example, the surplus coffee of Brazil comes to the United States; the surplus cotton grown here goes to England; while England exports her surplus machinery and woolens to Brazil, and so on indefinitely. Each country trades its surplus for the surplus of another. As a result there is established an international money exchange, which serves as a barometer of the industrial and agricultural conditions in every country of the world. Closely allied to the interdependence of the nations because of trade is their interdependence because of large-scale capital investments made in foreign countries by private owners. Before the World War the volume of British and French private capital invested in the "backward" districts of Africa and Asia had been rapidly increasing. Since the World War, however, the United States has become the outstanding foreign investor. The gross total of its private investments in other lands now amounts to over fifteen billion dollars.

Second, the industrial conditions, that is, the hours and wages of workers in one country affect those of workers in all other countries.

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[1] U. S. Department of Commerce, *Commerce Year Book*, 1928, Vol. II, p. 735.

Thus, the low wages of shoe-workers in Czechoslovakia make it possible to sell shoes made in Czechoslovakia at a price below that of shoes made in the United States. The result is that the living standards of shoe-workers in Massachusetts and other shoe centres are reduced by the low standards of the shoe-workers in Czechoslovakia. Moreover, not only the wages but also the business conditions in one country affect the wages and business conditions in others, as prosperity and depression tend to appear in all industrial nations at the same time.

Third, the agricultural conditions in one country directly affect those in other countries producing the same farm products. Thus the price of American wheat is directly influenced by the size of the wheat crop in Argentina, Canada, and Australia. This situation, in turn, reacts on the value of farm lands and farm standards of living in the United States.

A fourth matter of international concern is health and sanitation. This applies especially to contiguous countries, although some diseases such as influenza are world-wide in scope. It is obvious that disease germs are no respecters of political boundaries. In 1920, the most acute typhus fever epidemic of modern times originated in Russia and threatened the adjoining states. In this crisis, an international conference at London was asked by the League of Nations to plan a campaign against the epidemic. An Epidemic Commission was set up by the League to conduct the work, and about one and one-half million dollars was subscribed by the various nations. This is the first time that the governments of the world made financial contributions to aid other nations in fighting disease. Incidentally, it illustrates how an emergency rather than the normal pursuits of life, compels nations to recognize their common interests and the necessity of concerted action.[2]

A fifth type of international dependence is illustrated by the opium and drug traffic. Obviously the distribution of drugs and narcotics cannot be controlled by one country alone. The problem is world-wide in its ramifications, and nothing less than world action can regulate it.

The sixth evidence of interdependence is exemplified in the many different associations and societies that have been formed throughout the world, irrespective of national boundaries. There are, for example, social agencies embracing the entire world, such as the International Red Cross and the International Institute of Agriculture; and commercial agencies, such as the International Postal Union and the International Chamber of Commerce. The Handbook of International Associations issued annually by the Secretariat of the League of Nations enumerates some 600 international associations whose object is other than that of making money. Among those listed are the World's Alliance of Young Men's Christian Associations, International Association of Journalists, International Masonic Association, International Bureau of Education, Universal Esperanto Association, International Federation of the Temperance Societies of the Blue Cross, and the International Radio Union. The purely economic organizations, such as international banking associations, firms, cartels, trusts, and trading corporations, are too numerous to estimate. The cultural and the economic life of modern times are thoroughly international.

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[2] Geneva Institute of International Relations, *Problems of Peace*, 2nd Series, p. 226.

None of these associations, however, nor any of the factors listed above, shows the intimate dependence of nation on nation as does war. The World War illustrated the interdependence of nations in a dramatic way. In 1914 most of the countries of Europe were so closely allied with one another by trade, and commercial and political treaties, that shortly after the outbreak of hostilities all the powerful nations threw their energies into the fight on one side or the other. At once the life and trade of the United States were affected, and it, too, soon became a belligerent. This rapid movement of events is no cause for surprise. The great wars of modern times must be world wars. No important nation is sufficiently isolated from other nations to permit it to hold itself aloof from hostilities.

Because of the increasing interdependence of nations, the need of international law has become more urgent than at any time in the past. Unfortunately, however, only a beginning has been made in formulating laws to control international conduct. The greater part of the existing code of international law consists of the rules of war. There exist formal understandings among nations as to copyright and patent laws, postal and telegraph service, and the extradition of criminals; but there is no international law in the strict sense of the term. The most anarchic conditions prevailed prior to 1919, when every nation was practically free to "take the law into its own hands," and, with armies and navies, force its will on other nations. Since the establishment of the League of Nations in 1919, however, the idea of absolute sovereignty has been considerably modified, and a hopeful beginning has been made toward the formulation of international law.

B. Good and Bad Effects.—Certain results have followed from the increased dependence of nations on one another. Some of the results are good; others are evil. Among the former is the very important fact that nations are enabled to provide themselves with foodstuffs and the necessities and comforts of life. Ocean shipping carries foodstuffs from countries in which these can be produced in abundance to countries in which they cannot be produced because either of soil exhaustion, or the overdevelopment of manufacturing. Thus, Argentina sends wheat to Great Britain in exchange for manufactured textiles, and the result is a net advantage to both countries. Again, international trade brings the surplus conveniences and luxuries of one country to another, in return for the latter's surplus conveniences and luxuries. Brazil receives automobiles from the United States in return for coffee and cacao. Likewise the tropical countries export fruits, rubber, and rare woods in exchange for cotton textiles and machinery.

There are also other advantages of great moment. The proximity of nations has greatly aided in diffusing knowledge, culture, and science. By means of modern methods of communication and travel, coöperative scientific research can be carried on simultaneously in universities of many and widely-separated countries, to the benefit of all. Again, the convenience and rapidity of modern travel facilitate the interchange and intercrossing of ideas. Every nation has its "spirit,"—it possesses certain forms of art, science, or industry, in which it excels, and by which it contributes to world progress.[3] These national superiorities impress travelers, who bring with them the ideas and characteristics of their home country, and return with those they have gathered on their journey. The net effect is a gain for progress and civilization.

Nevertheless, the growing interdependence of the nations has not been an unmixed good. Certain evils are to be charged against it. First, the multiplied relations into which the nations of the world have been drawn, constitute a prolific source of friction. Formerly, when nations did not cross one another's paths either in seeking for the same raw materials in Africa or China, or in competing for the same markets in Australia or South America, there was practically no occasion for differences and disputes. But now there is a constant conflict of interests, which keeps statesmen in constant fear of open breaks in diplomatic relations. Again, it is to be recalled that when war is declared in modern times, it finds nations so closely knit together by commercial and cultural ties that no one of them can easily remain neutral. The world nations are "organized" during peace times, and the "organization" continues during war. Consequently the benefits derived from breaking down the economic boundaries between nations have been partially offset by the constant threat of misunderstanding and war. The barriers of isolation of earlier days prevented peoples from coöperating with one another to their mutual advantage, but they also rendered it difficult for them to wage war on one another. Wars were localized and usually bilateral. Modern wars, on the other hand, at least among the great powers, must be world-wide in scope.

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[3] Cecil, *The Way of Peace*, pp. 80–102.

The discussion thus far suggests the greatest problem facing the modern world. This problem is the conflict between the national interests of the state and the wider interests of humanity, which cut across political boundaries. This calls for a more detailed treatment of the conflicting claims of nationalism and internationalism.

II. NATIONALISM AND INTERNATIONALISM

A. Nationalism, Its Various Meanings.—Both proper and improper meanings are attached to the term "nationalism." For example, nationalism may mean patriotism, i. e., commendable love of country. On the other hand, it may mean an overemphasis of the claims of racial stocks within a country, for example, those of the German, Irish, or Polish groupings in the United States. In his *Essays on Nationalism,* Professor Hayes distinguishes between two meanings of *nationalism:* first, the historical process by which existing political units, known as national states, have developed gradually from tribes and empires; secondly, the popular belief that one's nationality or national state has such intrinsic excellence as to merit loyalty over every other interest, and to entitle it to devotion amounting to religious worship. It is nationalism in the second sense that Professor Hayes uses as the theme of his essays. There are, however, as he points out, other meanings attaching to the term "nationalism." Some of them will now be indicated.

Political nationalism is the commonest type of nationalism. As a theory, it holds that the people of any geographical area who are united by bonds of blood, language, and tradition, have the right to set up their own government. This theory forms the basis of the slogan, "self-determination for small nations." Secondly, there is cultural nationalism. This is illustrated wherever a language group within a country adheres to its language, customs, and traditions, and aims to preserve its group solidarity aloof from the predominant culture of the country itself. Thirdly, there is economic nationalism. This form of nationalism holds up the economic self-sufficiency of the home country as an ideal, and demands that tariffs and subsidies be granted to home manufacturers in order to build up home industries, and make the domestic population as independent as possible of foreign producers. Finally, there is philosophical nationalism. This is the doctrine of those who regard the national state as an end in itself. Accordingly, citizens should pay almost religious homage to the state; and, for all practical purposes, regard it as a deity. Similarly, voluntary associations find, in the state, their ultimate purpose of being. All organized groups such as schools, churches, families, and business corporations are completely subordinate to it. They are mere vehicles to promote national prestige. They must shape their conduct and policies in such a way as to enhance the honor of an imaginary idol, the national government. If they do not conform, they forfeit their right to exist, and should be dissolved.

This extravagant conception of the state is a curious combination of the philosophical theories of Immanuel Kant and Georg Wilhelm Friedrich Hegel. Kant insisted on the widest scope of freedom for the individual, and virtually made him an end in himself. This emphasis on individual self-sufficiency he carried over into his political philosophy, by endowing the state with the widest freedom of action in its dealings with other states, thus making it an end in itself. *Homo homini lupus* (every man is a wolf to every other man) was the famous dictum of Hobbes. Kant took over this doctrine and taught that the same relationship exists among states. Obviously, according to this philosophy, war is the sole arbiter among nations and only the strongest and fittest will survive.[4] Hegel placed a religious aureole about this vicious theory of political individualism. He taught a system of pantheism, and deified the national government, declaring it to be the highest duty of the citizen to allow himself to be "absorbed" by the state.

The excesses of philosophical nationalism, with or without its religious aspects, manifest themselves in a twofold way, one with reference to the home population, the other with reference to foreign nations. Nationalist writers clothe the home government with absolute power in dealing with its own citizens. They invest it with absolute independence also in its dealings with other nations. Moreover, they seek to indoctrinate the home population with the belief that they are superior to foreign peoples. An important feature of the general program of philosophical nationalism is the conviction that the home nation has a "mission" to impose its will and culture on other peoples. This pernicious teaching rests ultimately on the false hypothesis that human beings are not equal, but that some are superior; and that the home population stands alone in excellence. Philosophical nationalism is easily made to do service for economic nationalism. Thus the nations of Africa, and until recently, the people of China, have been regarded not merely as under-priviliged, but as a sub-human stock, and therefore a fair prey for the stronger nations to exploit. In practice, philosophical nationalism has led to the seizure of the greater part of Africa by Great Britain, France, Belgium, Italy, and Portugal; and whole nations have been driven from their homes as if they were beasts of the field, with utter disregard of their human rights. The American treatment of the natives of Haiti and Nicaragua has in some instances proceeded on substantially the same principle.

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[4] *Semaine Sociale de France*, 1926, p. 282.

The assumption that foreign nations are inferior to one's own is of ancient pagan origin. It dates back to the distinction made by the Greeks between citizens and foreigners. The latter were called *barbaroi.* (Cf. modern term, barbarian: savage, rude, slavish). Even Aristotle declared that the Greek cities had the right to unite and march against the *barbaroi.*[5] The persistence of the theory of the inequality of races caused slavery to survive in the United States far into the nineteenth century. Negroes were seized in their native homes in Africa and sold as slaves in European and American markets. The same theory of inequality which underlies slavery is employed by the nation which is bent on building up a strong nationalist government. It treats foreign civilized races with the same disdain as it treats uncivilized peoples, and recognizes the existence of human rights only to the extent that they can be protected by force. (See Chapter II.)

B. Sane Nationalism or Patriotism.—In spite of the evils resulting from exaggerated nationalism, there exists a sane nationalism, which rests on a firm and rational foundation. Sane nationalism is synomomous with patriotism, which may be defined as well-regulated charity toward one's country. The charity which forms the basis of patriotism is called "well-regulated," in order to differentiate it from the charity which is defective or excessive. It is plain that a man's patriotism is defective if he lacks all interest in public affairs, or if he refuses to do his part in protecting his country from a foreign aggressor. Clearly this man fails in charity by defect. Charity, however, can also be ill-regulated because of its excess. An analogy may make this clear. A father who allows the care of his family to absorb all his attention so that he is not in the least concerned about community or state questions, practises charity. His charity, however, is excessive toward his family, and defective toward the state. In like manner, the citizens of a nation who are interested in domestic affairs exclusively, and who are not concerned about what is taking place outside their home country, fail through an excessive patriotism, and, therefore in genuine, well-regulated love of country.

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[5] *Politics*, Book I, Chap. viii.

The proper attitude of a man toward his family illustrates also the essential nature of patriotism. A father naturally sets the interests of his wife and children above the interests of the wives and children of other men. The claims on him as father deserve prior attention to the claims on him as citizen. In like manner, when all is said and done, patriotism is a preference. It is a preference based on the proverb that "charity begins at home." The ultimate explanation of the preference that an American has for an American and for American interests, as against a Japanese and Japanese interests, is that Americans are nearer to him as neighbors than are the Japanese. The further explanation of the preferential treatment which the citizen accords his fellow citizens, is that somehow the interests of groups close to an individual are more identified with his own than are the interests of those at a distance. In other words, his interests are mixed more directly with those of persons near him than they are with those of persons far away. This fact must be kept in mind in order to avoid the excesses of those who assert that all national boundaries should be obliterated and that the peoples of the world should be "internationalized."

Healthy nationalism, that is, patriotism stripped of its contemporary connotations of linguistic groups, is rooted in human beings. As a gregarious tendency it cannot be entirely eradicated from human nature. Still, as will be seen, it is extremely difficult to reconcile the conflicting requirements of nationalism with the larger requirements of world welfare. To restrict national sovereignty unduly by overexalting international power is to sacrifice the benefits which national sovereignty alone can produce. On the other hand, to insist on excessive national sovereignty, is to set up a multitude of individual independencies and render impossible the maintenance of orderly relations among the nations of the world. Before considering the efforts that have been made in the past to harmonize the two great forces of nationalism and internationalism, it will be necessary to attach a definite meaning to the term internationalism.

C. Internationalism, True and False.—In spite of some of the objectionable forms which internationalism may assume, there exists a legitimate internationalism, which is based on the fact that all peoples of the world possess a common humanity. Beneath their many differences in color, language, and custom, individuals of all races are human beings, and every human personality possesses inherent sacredness. In order to protect this inherent sacredness and the prerogatives which go with it, peoples group themselves together and set up governments. This they have an inalienable right to do, whenever they inhabit the same geographical district and possess common interests. The government that they establish, however, is not absolutely sovereign so far as other governments are concerned. True internationalism cannot concede absolute independence to any one state. On the other hand, it does not require any state to surrender its essential autonomy to a super-state, or world government.

The objectionable forms of internationalism referred to above include particularly the anti-national activities of certain radical labor groups.[6] Because of such activities many persons are prejudiced against the term "internationalism." Their opposition, however, is not well grounded, as they neglect the wider meaning of the term and restrict it to the anti-patriotism or cosmopolitanism of a relatively small segment of the labor movement. To repeat, this form of international action is only a very limited phase of internationalism. Needless to say, it has no place in a well thought-out program of international relations. Although it is necessary for workers throughout the world to organize in associations paralleling the strength of world organizations of capital, it does not follow for that reason that national boundaries should be broken down and abolished. The League of Nations proceeds on the principle that workers in all parts of the world have a community of interests, but it is far from denying that separate governments should be maintained. Through its International Labour Office it endeavors to establish minimum standards for workers throughout the world, and at the same time it completely recognizes the sovereignty and political jurisdiction of every nation.

In a certain sense true internationalism may be regarded as an attitude of mind. It consists in a willingness on the part of the inhabitants of every nation to recognize the good qualities of the inhabitants of every other nation. More than this, it deprecates the policy of adjusting differences between nations by force of arms. In an address before the Geneva Institute of International Relations in 1927, Mr. Delisle Burns of the University of Glasgow said: "Internationalism is an attitude of expectation. With that internationalism a Nation may understand what it may gain from intercourse with other Nations; it may feel what great gifts it may contribute to the lives of other Nations. The policy which results is coöperation between Nations."[7]

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[6] Kirkup, *History of Socialism*, p. 6; *Communist Internationale*, in Browne, *What's What in the Labor Movement*, p. 86.

To the theologians of the sixteenth century internationalism as a state of mind was a necessary application of the Christian teaching that all baptized persons are members of the mystical body of Christ, bound together by supernatural charity. James Brown Scott explains the doctrines of the Jesuit theologian Suarez (1548–1617), who taught that an association of states is required by the law of Christian charity:

> His international community is an association of States each of which is separate and distinct, but each a member of a vast confederation with a law of nations instead of a federal law controlling their actions. It is not an organic union; it is without a written constitution; the bond uniting its members is sentimental, resulting from those feelings of affection and charity which bring human beings together to form, through their association, a political society, and through law to preserve both themselves and their society.[8]

After the foregoing analysis of nationalism and internationalism, it will be interesting to examine the efforts made in the past to harmonize their conflicting claims.

III. EFFORTS TO RECONCILE THE CONFLICTING CLAIMS OF NATIONALISM AND INTERNATIONALISM

A. Arbitration in the Middle Ages.—One of the earliest efforts to adjust the differences between states took the form of arbitration. According to strict definition, arbitration is the act of an impartial umpire delivering a decision in a controversy. By previous agreement the litigants are bound to accept the judgment (*arbitrium*) of the arbitrator whom they have chosen. In principle, arbitration is extremely simple. It is exemplified in the decisions of an umpire in a base-ball game, or of a judge in a dignified court of law. In the Middle Ages the Pope was the arbitrator recognized by the princes of Europe. The names of Innocent III (1198–1216), Boniface VIII (1294–1303), Martin V (1417–1431), and Alexander VI (1492–1503) stand out conspicuously for achievements in this field.[9]

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[7] Geneva Institute of International Relations, *Problems of Peace*, 2nd Series, p. 351.

[8] *The Spanish Origin of International Law*, p. 91.

[9] Plater, *A Primer of Peace and War*, p. 252; for an extended review of the peace activities of the Popes from the time of Charlemagne down to the present, see Goyau, *l'Église Catholique et la paix, histoire ancienne et faits recents*, in *Semaine Sociale de France*, 1926, pp. 111–134; for a brief review see Ralston, *International Arbitration from Athens to Locarno*, pp. 174–176.

Professor Leacock writes:

> During the mediaeval and early modern period, while the theory of a common superior still persisted, recourse was often had to the Pope as an arbiter between contending princes. But such arbitration, except in the case of the celebrated award of Pope Alexander VI, dividing the New World between Spain and Portugal, and in a few lesser instances, was not applied to questions of great magnitude. In the seventeenth and eighteenth centuries international arbitration is scarcely found, but the circumstances of the nineteenth century especially favored the development of the principle. The increasing costliness of war, the dislocation that it occasions not only to the industrial life of the belligerents, but to that of all countries associated with them, the growing interdependence of general financial and commercial operations throughout the civilized world, put a strong premium on any method of settling quarrels without actual war.[10]

B. The Hague Conferences.—In 1899, an attempt was made by the great powers to set up a tribunal for the settlement of international disputes. A convention was signed at The Hague in that year, creating a permanent court to take evidence and make awards. The court consisted of a panel of about 150 international jurists, each signatory nation being allowed to designate four judges. In the event of a dispute between two nations, each nation was to select two judges from the panel, and these four were to select an umpire. During the first ten years of the existence of the tribunal, 133 treaties were concluded, binding the contracting nations to submit certain disputes to arbitration. From the time of its establishment, 19 cases of arbitration were handled successfully by the court. But the court was greatly restricted in the scope of its work. With only a few exceptions the treaties excluded from arbitration disputes involving either "national independence," "national honor," or "vital interests." With the exclusion of these questions the force of the treaties was nearly nullified, as in disputes governments almost invariably insist that one or the other of these considerations is at stake.

A second Hague Conference was called in 1907. The Conference succeeded in agreeing on the general structure of a new Permanent Court of International Justice, but could not agree on the method of electing judges. The Conference adjourned after a deadlock over the rival claims of the equality of States and the dominance of the Great Powers. It is to be observed that the Hague Tribunal possessed no means of enforcing its decisions. Moreover, since the creation of the World Court by the League of Nations, the Hague Tribunal, although occasionally called upon to adjust differences, is practically non-existent.[11]

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[10] *Elements of Political Science*, p. 100.

[11] de Bustamante, *The World Court*, trans. pp. 41–67; Ralston, *International Arbitration from Athens to Locarno*, pp. 253–286.

C. The League of Nations.—The League of Nations is the most pretentious plan for promoting international amity and welfare that has been created in modern times. It owes its origin to the Treaty of Versailles, which concluded the World War. Part I of the Treaty provided for the establishment of the League of Nations. Thus the Treaty created the League of Nations, and the League, in turn, created the World Court.

The section of the Treaty of Versailles which created the League of Nations, consists of a preamble and 26 articles, in double official text, French and English.[12] The headquarters of the League are in Geneva, Switzerland. The Organs of the League are: (1) The Assembly, which meets at Geneva, and consists of representatives of *all* the states belonging to the League. (2) The Council, which usually meets at Geneva, and consists of representatives of principal world powers, i. e., France, Germany, Great Britain, Italy, and Japan, and the representatives of nine other nations, elected for a period of three years. (3) The Secretariat located at Geneva, elected by the Council, and approved by a majority of the Assembly. (4) The Permanent Court of Justice, which sits at The Hague, and decides disputes submitted to it, and gives advisory opinions on questions referred to it by the Assembly or Council. (5) The International Labour Organization, at Geneva, which seeks to establish international labor standards, and operates through two main organs, the International Labour Conference and the International Labour Office.[13]

On January 1, 1930, 54 states were members of the League of Nations at Geneva. Nine states were non-members, the important non-members being the United States and Russia. The League represents five-sixths of the world's population; the total number represented being 1,532,000,000, and those not represented, 316,000,000.

One of the questions most frequently asked regarding the League of Nations relates to its powers to enforce decisions. The Covenant of the League provides that in the event of a dispute which cannot be settled by diplomacy, the contending parties shall submit the entire matter to "arbitration or judicial settlement." If the dispute is one that cannot be arbitrated, the matter is presented to the Council of the League, which endeavors to effect a settlement. If the Council's decision is not accepted, a report is published, giving the facts in the case and offering recommendations for its solution. Finally, if any member resorts to war, in disregard of its obligation under the League, the Council recommends that the other members sever all trade and commercial relations with the offending member, and use armed force against it.

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[12] Secretariat of the League of Nations, *The Aims and Organization of the League of Nations*, Geneva, 1929, p. 15.

[13] Howard-Ellis, *The Origin, Structure and Working of the League of Nations*, Chaps. VI, VII, VIII, and X.

The text covering this point reads:

> It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval, or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.[14]

Thus it is evident that the League of Nations may use armed force, if necessary, to enforce its decisions. This, however, should not obscure the much more important fact that the League gives peaceably inclined nations an opportunity to adjust differences without being compelled to go to war. Moreover, since the signing of the Kellogg Pact for the Renunciation of War, on July 24, 1929, the feeling has grown among the states members of the League that the war clause should be abolished entirely from the Covenant, and the economic boycott substituted in its stead.

It is difficult to estimate the actual accomplishments of the League of Nations to date. Its critics hold that the disputes which have been adjusted thus far, were of minor importance, and that they would have adjusted themselves in the normal course of events, without the aid of the League. On the other hand, the advocates of the League insist that several of the disputes adjusted by the League were not unimportant, but had reached serious proportions at the time they were submitted for adjudication. For example, in the Upper Silesia case, settled in 1927, the Supreme Council of the Allied Premiers had tried in vain to effect a compromise, and the bitterness in Germany had made the conflict a crisis of the first magnitude. Again, the Italian seizure of Corfu caused grave tension, as England was a quasi-protector of Greece. Here the actual decision was rendered by the Conference of Ambassadors, although the influence of the League was decisive. Other important achievements were the settlements effected in the Mosul and Greco-Bulgarian conflicts. When it is recalled that the World War was precipitated by the assassination of a relatively obscure Archduke, it can readily be seen that any of the major disputes adjusted by the League of Nations might have led to serious consequences, were it not for the intervention of the League.

Another very important activity of the League of Nations is the work of Commissions which collect and publish information regarding economic tendencies, which may lead to misunderstanding and war. These tendencies relate to immigration, raw materials, loans, and transportation. First, ill-will can easily arise when one country adopts a discriminatory immigration policy of admitting nationals of some countries but not of others. Naturally, the countries whose people are excluded, regard a policy of this kind as an act of unfriendliness. Secondly, monopolistic control by any country of such raw materials as rubber, oil, and potash creates ill-feeling. This is true particularly when some foreign countries are charged higher prices than others. Thirdly, very serious international complications may arise because of loans made by one government or by its banking firms to a foreign government. American loans made to the Latin American governments, French loans to Russia, and German loans to Turkey and Bulgaria, may be cited as illustrations. As a result of such transactions, the debtor country becomes politically dependent on the creditor country, and the latter feels obliged to support the government of the former against both internal revolution and aggression from without. Finally, the problems of transportation are constantly threatening world peace. This may be observed especially in the case of countries like Switzerland, Austria, Hungary, and Czechoslovakia, which are without seaports, and must depend for their imports and exports on surrounding countries. The League hopes that by collecting and publishing information on these questions, world opinion will be directed against the nations whose policies are unreasonable and narrowly selfish, and that as a consequence some of the more important causes of international friction will be removed. It may be added that in 1927 the League sponsored an International Economic Conference to study means to reduce arbitrary interference with international trade.[15] Widespread interest in this conference was manifested in the United States.

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[14] Article 16, The Covenant, cf. Secretariat of the League of Nations, *The Aims and Organization of the League of Nations*, p. 86.

The League of Nations has undertaken also another important work in addition to the activities just described. This work is of a broadly humanitarian character, affecting the peoples of all countries. It includes the study of diseases and epidemics, the regulation of the opium traffic, the protection of women and children workers, and the gathering of information regarding the military strength and plans of the various nations. These and similar activities are in charge of "sections" of the League with well defined jurisdictions. All these "sections" are united under the Secretariat of the League. The Secretariat comprises the Secretary General, and over 600 men and women of 40 different nationalities.

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[15] Young and Fay, *The International Economic Conference*, 1927.

D. The World Court.—One of the organs of the League of Nations which deserves special attention is the World Court. The World Court came into being in 1922, by action of the Council of the League of Nations. The judges of the Court, eleven in number, were elected on September 14, 1921. The Court opens its ordinary sessions each year on the fifteenth of June. From 1922 to 1930, the ordinary and extraordinary sessions numbered 17. On January 1, 1930, 52 states were members of the Court, and the Court was "open" to 18 other states, among them the United States, Russia, and Mexico. The states to which the Court is "open" are states which are not members of the League of Nations. Each non-member, however, is obliged to deposit with the registrar of the Court a declaration in which it accepts the jurisdiction of the Court and "undertakes to carry out in good faith the decision or decisions of the Court and not to resort to war against a State complying therewith." Since 1922, the Court has rendered 16 judgments, 16 advisory opinions and a number of orders.[16]

The World Court should not be regarded as a court in the strict sense of the term. There are two important differences between the World Court and a typical court of law. The typical court of law has three constituent elements: first, a judge or body of judges; secondly, a body of law; and thirdly, affirmative jurisdiction, that is, the power to summon defendants to appear before it. The World Court satisfies only the first of these requirements completely. The second and third it satisfies only partially. Although the Court is developing a code of international law, it is still without a strong body of precedents to guide it in making decisions. Moreover, it lacks power to compel either party to a dispute to appear before it. It has this power only in case the defendant had previously signed a treaty providing for compulsory jurisdiction of the Court in this dispute, or else had signed the "optional" clause. "The jurisdiction of the Court depends ultimately on the desire of the parties to submit cases to it." [17] Thus the Court deals only with justiciable disputes, and in view of the embryonic condition of international law, many of the more important questions are not justiciable. These differences between the World Court and the ordinary court of law are mentioned to offset any unwarranted enthusiasm for the World Court, and to indicate the vast amount of work that remains to be done in the field of international law before a genuine world tribunal of justice can function properly.[18]

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[16] The American Foundation, *The World Court*, Pamphlet, p. 20; for history and structure of the Court, see de Bustamante, *The World Court*, trans.

[17] Secretariat of the League of Nations, *The Aims and Organization of the League of Nations*, 1929, p. 57.

IV. NECESSITY OF A WORLD ASSOCIATION OF NATIONS

A. Theory of a World Association.—Although the League of Nations and the World Court have been functioning with considerable success, they have also been criticized, and, to some extent, justly. This is to be expected in the case of a new and vast experiment. Mistakes of administration can be looked for, when there is so little in the way of precedent. Moreover, the modern world is still dominantly national-minded, and will probably remain so for a long time to come. As a result, it is extremely difficult to find officials for the League and Court who can calmly balance their national claims with the claims of world well-being. In addition, League and Court officials are confronted with the task of converting their fellow nationals to the habit of viewing domestic problems in their international setting. Failing in this, these officials must either yield to the nationalistic sentiments of the home population, or else be retired from office.

But apart from the shortcomings and handicaps of the League and the World Court, it cannot be denied that the theory upon which they are established is fundamentally sound. This theory may be stated as follows: An impartial tribunal, exercising powers which are ceded to it voluntarily by the 70-odd nations of the world, is necessary for the peace and welfare of the race. Farther on, it will be demonstrated that a world tribunal of this kind is not only necessary for peace and welfare, but is demanded by the common humanity of peoples, especially in view of their present close coördination throughout the world.

In discussing international relations it is important to keep in mind what was said above regarding the effect of mechanical inventions on modern states. The most widely separated peoples now communicate and exchange goods, with the result that they are drawn into juridical relations, undreamed of in the days predating steam and electricity. Moreover, it is to be remembered that no nation has the raw materials that are necessary for its own manufacture and consumption. One has coal in abundance; another, iron ore; a third, rubber; a fourth, silk;

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[18] Williams, *Chapters on Current International Law and the League of Nations*, Chap. I.

and with the exception of unusually favored nations, like the United States, each is forced to trade with other nations in order to live, or at least to live well, e. g., to enjoy such moderate luxuries as coffee or sugar. To meet these demands rail and ocean shipping have been developed. Transportation binds the nations together with steel, just as the international markets which they create, bind them with gold. These are geographical and economic realities that cannot be ignored.

The lack of political organization among the nations today may be compared to the condition prevailing in the American Colonies immediately preceding the formation of the Federal Union. At this time the Colonies had outgrown the simple governmental organization of frontier days, and there was urgent need of a new political structure based on altered economic conditions. In the latter half of the seventeenth century, a hundred years before the signing of the Articles of Confederation, the colonists maintained a household system of production. Every family was economically self-sufficient. But in the course of time commerce and trade developed. Boston, New York, and Philadelphia were drawn closer together year after year, and the need of a close political federation grew imperative. As a result, a form of government reflecting the new economic and social conditions was created. The new Constitution was adopted in 1783, and each of the 13 Colonies automatically renounced its sovereign right to declare war. Tariff restrictions between the States were prohibited, and the Supreme Court was created to settle such interstate disputes as might arise. The final result was the establishment of the American Union, based on the theory that the original States ceded considerable powers to a central government, and retained all powers not so ceded.

Similar economic changes, but of far greater dimensions, have taken place throughout the world since the formation of the American Union. In the wake of these changes, the people of each nation have become better acquainted with those of others, exchange ideas and cultures with them, and, what is most important, enter into juridical relations with them because of trade and commercial interests. When trade interests were few, juridical relations were few, and the likelihood of conflict practically non-existent. But, in the modern world, trade interests have multiplied and have heightened the probability of war. Strange to say, with the exception of the Hague Tribunal and the non-American arbitration and conciliation treaties, the League of Nations and the World Court, and the Pan-American Arbitration Treaties, no orderly method of settling disputes has been evolved. The result has been that the nations with the most powerful armies and navies have been able, as a rule, to impose their notions of justice and civilization on the rest of the world.

B. Two Proposals: A World State and a World Association.—To meet present conditions two broad plans have been suggested. The first proposes to create a world state to take over the sovereignty now exercised by individual states. This super-state would have a single capital city, in which a world president would reside, and to which the various nations would send their representatives to make laws and interpret them. The second plan would set up a new international organization which, while leaving the present states intact, would link them together in a federal world government. This plan, of course, assumes a diminution of the absolute sovereignty now claimed by the several individual states, although it does not propose to abolish national sovereignty as advocated in the first plan. The proposed world association, possessing the necessary courts and commissions, is comparable in theory to the present Federal Government of the United States, although it would have far less authority over the individual governments of the world than that exercised by the Federal Government over the individual States of the Union. It would not be difficult to define the powers of a world association of this kind. They would be determined by the purposes for which the association had been set up, namely, to secure international justice and international welfare. The world association would possess no powers beyond those necessary to secure these ends. For example, it would have no authority over questions involving the domestic affairs of a nation,—its fiscal policy, suffrage, or school system. The scope of its jurisdiction would be restricted to such actions of nations as affect the well-being of other nations.

The first plan, that of a super-state, need not be examined seriously, nor at great length. In the first place, by abolishing national sovereignty, it would nullify the many advantages which result from the present organization of the world into national states. Again, it would be highly impracticable. While it is true that the nations are closely knit together because of mechanical inventions, nevertheless they are too far apart to be ruled as a unit by a single world government.

C. A World Association Necessary for World Welfare.—The second of the plans just outlined, is, in view of existing international relationships, not only advisable but necessary for world welfare. It may be laid down as a general principle that the more complicated and numerous human relations become, the more need there is of governmental machinery to regulate them. The more persons deal with one another, and the more their juridical relations are multiplied, the greater becomes the need of rules and sanctions of government. This principle explains the vast increase of social legislation in the United States during the past five decades. The increase has been even more rapid in densely populated countries, such as Germany, Great Britain, and France.[19] Similarly, the relations of nations with one another have increased markedly since the close of the past century, and there is urgent need of international law to define in world terms, the rights of the various nations and their citizens. It is no straining of logic to say that if the doctrine of the ''brotherhood of man'' dictates the need of law and order within a nation, it dictates with equal urgency the need of law and order among nations. The brotherhood of man does not stop at political boundaries. Either it is coextensive with humanity, or it has no meaning whatsoever.[20]

During the World War, Pope Benedict XV, in a letter to the rulers of the belligerent nations, reminded them of the necessity of substituting the moral force of justice for the material force of arms, and proposed a Court of Arbitration to which the nations would be compelled to submit their disputes. He wrote: ''First, the fundamental point must be that the material force of arms shall give way to the moral force of right, whence shall proceed a just agreement of all upon the simultaneous and reciprocal decrease of armaments, according to rules and guarantees to be established, in the necessary and sufficient measure for the maintenance of public order in every State; then, taking the place of arms, the institution of arbitration, with its high pacifying function, according to rules to be drawn in concert and under sanctions to be determined against any State which would decline either to refer international questions to arbitration or to accept its awards.'' [21]

Before any plan of a world association can function successfully, it is evident that the nations must recede from the irrational position that each is unqualifiedly sovereign and independent in its dealings with other states. This requirement is imperative for world order. It is not safe to permit any nation to map out its world policies on the assumption that it is absolutely sovereign, and competent to decide all disputes in which it is involved. Here the ancient axiom is peculiarly applicable: *Nemo judex in causa sua* (No one is an impartial judge in his own case). States, like individuals, are not competent to make just decisions when they are parties to a dispute. This, of course, has not deterred them from making decisions when their own interests were involved. On the contrary, the history of imperialism during the past hundred years is an almost unbroken record of the stronger nation ruthlessly imposing its will and government on weaker and less civilized peoples.[22] Sometimes oppressed nations have revolted. When rebellion has not actually broken out, it was because the weak and backward nation was compelled to submit to armed force.

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[19] Pipkin, *The Idea of Social Science.*

[20] Union Internationale d'Études Sociales, *Code Social*, p. 129.

[21] Letter to the Rulers of the Belligerent Nations, August 1, 1917.

The foregoing considerations lead to one of the central reasons for the establishment of a parliament and court, maintained by the associated nations of the world. A world parliament and court are the only possible means of protecting the integrity of nations or, what is the same thing, of preserving genuine nationalism. Those who insist on the great advantages flowing from nationalism, must admit that it is only through the united action of all nations that healthy nationalism can be maintained. In the last analysis, national well-being is closely identified with international well-being. If international well-being is violated by war, it is not only world welfare that suffers, but also the welfare of individual states. Furthermore, if an unjust war results in the conquest and subjugation of a weak nation by a stronger one, it eliminates one national state, and to that extent at least, deprives the world of the benefits of nationalism.

In addition, the number of unjust wars would be greatly reduced, if world opinion had an opportunity of expressing itself through a world association and court. At present no government allows a citizen to "take the law into his own hands." No people accepts brute force as a standard of justice in deciding disputes among individuals. Even an infant falling heir to a fortune on the demise of its parents, does not forfeit its right of inheritance because of its helplessness. Society has progressed to a point where it does not even question such rights as these. When the same standards are carried over into the field of international relations and given sanctions by the associated nations of the world, doubtless people will wonder why force was allowed to rule humanity for so many centuries, and why the same serious effort was not made sooner to settle contentious questions among nations as within nations, in open courts of law.

A further argument for an association of nations is based on the origin and nature of the national state. Every state owes its origin to the fact that a group of persons have felt the need of government, and have found that law and order can be secured only through government. In this sense, a government is a natural institution. But a government is not, in itself, the final end and purpose of the citizens who establish it. It is their creature and servant. Government is an instrumentality which men create to protect their rights and advance their welfare. In the sense, therefore, that the state grows out of the natural needs of human beings, it is a natural necessity. But an additional element is to be taken into account. Under present world conditions a state cannot render proper service to its subjects unless there is a power superior to it, to which it can look for protection. As the individual citizen needs the state, the state needs an association of states. In other words, as the individual citizen cannot live a normal life without a state to which he cedes some of his freedom of action, the state cannot function properly without a power to which it cedes some measure of its automony. As the good of the individual is the purpose of the state, the good of the state is the purpose of a world association of states.[23]

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[22] Details of the march of British, French, and German imperialism from Africa through Asia Minor up to China, may be found in Professor Moon's thorough work, *Imperialism and World Politics.*

The necessity of a world association of states is at least as demonstrable from the standpoint of function as it is from the standpoint of protection. The national state is fully competent to perform national functions, that is, to provide internal security and welfare. But modern inventions afford certain services and give rise to certain problems which of their nature lie outside the regulatory power and competence of the national state. Such, for example, are international postal, cable, telegraph, and telephone service; international radio and television broadcasting; protection of international copyrights; control of drugs and policing of the high seas against glaciers. Perhaps the most striking item in this list is the radio. Obviously, no national state can control the air channels of world broadcasting. International agreements and regulations are necessary. In a similar way, all the services and conveniences which modern science has provided, together with the international problems which they create, make world organization and agreement necessary.

V. OBJECTIVES OF A WORLD ASSOCIATION OF STATES

A world association must aim at two objectives: (A) It must enforce international justice, and (B) it must promote international welfare.

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[23] *Semaine Sociale de France*, 1926, pp. 296, 298.

The first of these aims is virtually contained in the second, but for the sake of clearness, each will be considered separately.

A. Enforcing International Justice.—The first major objective of a world association is the maintenance of justice among nations. Justice requires that every one be allowed to remain in possession of what belongs to him, and that, if his goods are taken from him, they be restored. (Cf. Chapter IV.) The word "goods" as used here includes all forms of property over which rights are legitimately exercised. Taking away goods owned by their possessor constitutes a violation of his rights, and hence of justice. For example, a nation that has entered into a treaty with another nation has a right to require that nation to fulfil its obligations. If the second nation fails to do so, it violates the rights of the first, and therefore of justice. It is to be observed that there is question here of a twofold violation, that of the nation and that of justice. The second of these violations suggests the essential character of justice. Whenever rights are violated, something far above their possessor is violated. It is the moral power of justice. From the time of the Greek philosophers in the fourth century before Christ, men have recognized the existence of this power as something transcending the sphere of human authority. In other words, they have always conceived justice as something objective, and unaffected by human thoughts and judgments. (Cf. Chapter IV.) Justice is not the product of the thinking of one party to a controversy; neither is it the product of the compromised thinking of the two, although it is likely to be nearer the latter than the former. Again, justice is not the product of force. The fact that a man has lost his life in an encounter with a highwayman is obviously no proof that the victim was in the wrong. Likewise the fact that a nation has lost most of its man-power in an unsuccessful war is not proof positive that it has received its just deserts, and that justice has been satisfied.

The popular saying that might does not make right, embodies the deep consciousness of mankind that above the power of machine guns and submarines and aircraft, there exists an objective moral power which may not be ignored in human affairs. This consciousness was appealed to in the address of M. Bourgeois to the advisory committee of jurists, who met at The Hague on June 16, 1920, to formulate plans for the establishment of the Permanent Court of International Justice. M. Bourgeois closed his speech with the words: "Gentlemen, you are about to give life to the judicial power of humanity. Philosophers and historians have told us the laws of the growth and decadence of Empires. We look to you, gentlemen, for the laws that will assure the perpetuity of the only empire that can never decay, the empire of justice, which is the expression of eternal truth.''[24]

It is extremely important to insist on the objective character of justice in discussing international relations. The present chaotic condition in world affairs is due to the fact that each nation has felt itself justified in going to war, if it regarded the reasons for doing so sufficient. In war the nations on each side consider justice as subjective. In their domestic affairs, however, they consider it as objective. They regard justice as something that is unaffected by the prejudiced thinking of litigants, and they establish courts to discover and apply it.

Justice assumes that, essentially, all nations are equal. It makes the same assumption regarding individuals. (Cf. Chapter IV.) As individual persons are equal in their essential qualities of soul and body, individual states are equal in domestic authority. This analogy, however, should not be pushed too far. First, the state has no immortal soul, which is the basis of equality among individuals. Again, the domestic authority of a state depends on its rightful exercise; when used to tyrranize and oppress, domestic authority loses its reason for being, and may be overthrown. Finally, states vary greatly in size of population, extent of territory, and degree of civilization. Nevertheless, it must be granted that states are equal in their functions of protecting the rights and promoting the welfare of their subjects. This equality is based on the fact that the individual subjects of every state possess rights equal to those of the subjects of every other state; and hence one aggregation of persons cannot justly deprive another aggregation of their rights. If these assumptions are denied, justice has no meaning, and loses all validity to require ''every one to be given his due.''

From these assumptions certain important applications of justice follow. First, an established state discharging its legitimate functions has a right to its independence. Hence, no other state may justly annex it against its will. It is well known, of course, that a ruthless policy of annexation has been pursued by powerful nations during the past seven or eight decades, frequently under the pretext of bringing civilization to ''backward'' races. This is exemplified in the British, French, and Belgian conquest and exploitation of African peoples. In addition, justice does not permit the seizure of a country, even if its inhabitants are given to an unnatural practice such as cannibalism. In the present organization of the world, so long as a practice of this kind does not conflict with the rights of other nations, the autonomy of the offending nation must be respected. Civilized nations would be justified in intervening to protect the lives of individual human beings, but not, however, to deprive the people of their political independence. Secondly, justice demands the observance of treaties and pacts entered into among nations. This requirement is obviously too elementary to call for comment. Thirdly, justice demands that in declaring war, a nation must have valid reasons for doing so.[25] The mere desire for new territory and colonies is not a sufficient reason for waging war. The conditions necessary for a just war will be stated in Section VI.

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[24] de Bustamante, *The World Court*, p. 97.

Finally, in all discussions of justice among nations, the importance of the virtue of equity should not be overlooked. Equity, it will be recalled, is the "better sort of justice." (Cf. Chapter V.) In some cases, the rigid enforcement of a law or of the literal terms of a contract causes grave loss and injury, and thereby defeats the ends of justice. To prevent these evils, justice needs the support of its allied virtue, equity, which under certain conditions requires individuals to neglect the favorable terms of a law or contract and embrace the less favorable, in the interest of genuine justice. Equity as thus understood binds nations as well as individuals. Hence a world association must enforce not only justice but even those requirements of fairness and equitable dealing which are not provided for in laws or treaties.

B. Promoting International Welfare.—Promoting international welfare means working toward a state of affairs in which all nations will have an opportunity of living in peace and security, and of enjoying material and spiritual well-being. The phrase, "promoting international welfare," does not mean that the individual nations are to have material and spiritual advantages created for them by a world association, as described above. The world association would not undertake to work directly for any nation. The nations would do for themselves, as at present, but each nation would be free to pursue its lawful purposes without interference from others. In this sense international welfare is negative: it implies freedom from the obstacles that would hinder a people from enjoying the goods and benefits to which they have a right.

International welfare consists also of positive elements. Among these the most prominent are peace and security. Obviously there is no well-being among nations if a state of war exists, or if any nation is under constant fear of invasion and conquest. Without going into detail as to procedure, war and conquest can be averted, if there is a world law-making body and a world tribunal, to which aggrieved nations may carry their complaints for redress and arbitration.

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[25] Sortais, *Traité de Philosophie*, Vol. II, p. 313.

A world association of nations could undertake another important type of work. It might create a bureau whose chief work would be to promote good will among the citizens of every country toward those of all. This suggestion will not appear utopian, if one recalls the great changes that have been effected in the life and customs of peoples through advertising and publicity. Advertising has been used successfully by insurance companies in building up new health habits throughout entire nations. It is frequently the determining factor in local and national elections. Again, the tide of religious bigotry in a country rises or falls in proportion to the volume of money that is spent in publicity, or advertising. Finally, it is to be remembered that prior to a war and during hostilities, advertising is used to engender and keep alive the feelings of hatred toward the enemy. A world bureau, therefore, might advantageously use this powerful medium, in times of peace, to promote understanding and good will among the peoples of the various countries.

International welfare, however, implies more than the preservation of peace. It requires the maintenance of those conditions in the world which each nation aims to create within its own boundaries when it "advances the common welfare." These conditions fall into three classes: material, intellectual, and moral. As a nation promotes the economic welfare of its people by building roads, dredging harbors, regulating public utilities, and enacting protective legislation for its working population, a world association of states could promote international economic welfare, by performing such works as will benefit all nations, and which no nation can undertake single-handed. Such international activities should include: control of immigration; regulation of trusts, cartels, tariffs, and farm surpluses; supervision of ocean shipping routes, air travel, and radio; publication of information for farmers; and building of canals and international highways. The case of the Bagdad Railroad illustrates the necessity of a world parliament and court for the promotion of international welfare. This railroad opened to civilization vast areas of undeveloped country, and yet its construction played a very important part in creating the international jealousies that precipitated the World War.[26] An impartial world court, if it were in existence at the time, would doubtless have seen to the completion of this necessary project without a threat of war attaching to it.

A second interest to be promoted on an international scale is the intellectual. Great advances could be made in the arts and sciences, if there were greater coöperation among the research schools and universities of the world, and if inventors and authors were given world protection for their productions.

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[26] Moon, *Imperialism and World Politics*, p. 248.

Finally, there are moral interests that can be safeguarded only through world-wide effort. Such interests include the prevention of the traffic in drugs, and the protection of unskilled men workers and of women and children workers, who, because of international competition are practically without safeguards in industry.

The two types of activities just described, namely, the promotion of peace and the advancement of the economic, intellectual, and moral interests of mankind, are the more important features in the general program of promoting international welfare.[27]

To sum up: the two objectives at which a world association must aim, are international justice and international welfare. If the association were to disregard the basic requirements of justice, particularly with reference to the rights of smaller nations or of minorities within nations, it would lose prestige and would gradually be abolished. Again, if the association were to become indifferent to international welfare, or allow itself to be dominated by a few powerful nations, mindful only of their selfish interests, the small nations would withdraw, and the stronger would probably war among themselves until one was supreme. International justice and international welfare, as objectives for a world association, may be criticized as too intangible and metaphysical for practical purposes. True, they are not so easily described as the objects of sight and touch. Nevertheless, they play an all-important part in life, and the common conviction of humanity testifies to their reality and the necessity of their application to world politics. The concepts of justice and welfare have been stressed here because, in the past, they have received such scant consideration in the discussion of international relations. The success of a permanent world association will depend on their candid and whole-hearted acceptance as goals in international action.

VI. WAR AND ITS PROBLEMS

A. The Cost of War.—War is the traditional method of settling disputes among nations. Throughout history it has been accepted implicitly as a part of life. In recent years, however, there has been a growing sentiment against the use of war, and the time may not be far distant when the nations will find a more rational method of settling their differences.

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[27] *Semaine Sociale de France,* 1926, p. 321.

The cost of war during the nineteenth century has been a heavy drain on the nations.[28] Professor Bullock estimates the payments for army, navy, pensions, and the interest on war debts in the United States in 1870 as forming 80 per cent of all Federal expenditures.[29] From 1870 to 1913, approximately three-fourths of all Federal expenditures were used for these purposes. During the years of the World War, as might be expected, the proportion ran much higher. In 1918, it was 97.2 per cent, and in 1919, 95.6 per cent.[30] At present (1930) it is 72 per cent. The direct monetary cost of the World War was $186,000,000,000.[31] The cost to the United States alone on June 30, 1927, was $48,000,000,000, and during the month of November 1918, prior to the signing of the Armistice, the average daily cost to the United States was $55,000,000. The size of these figures staggers the imagination; and yet they represent the loss of merely material goods, which can be replaced after one or two generations of industry and saving. The real loss of war is the destruction of the picked manhood of the belligerent nations. Professor Bogart estimates the number of soldiers killed in the World War at 10,000,000. To the loss of life, must be added the 20,000,000 wounded, the 9,000,000 orphans, and the 5,000,000 widows.[32]

B. Two Indictments of War.—In addition to the human and monetary costs of war two other grave indictments can be brought against it. The first is the fact that as an arbiter of justice and right, war is, in the majority of cases, a failure. It is only in exceptional instances that the oppressor is overthrown by war, and justice is established. Even in these rare instances there is no necessary connection between justice and victory. Ordinarily, the powerful nation is the conqueror, and the ashes of hatred and resentment smolder in the vanquished country until a counter movement can be financed. Moreover, the gains of war are not permanent. For example, Germany won Alsace-Lorraine by war in 1871, only to lose it, and more, by war in 1919. Finally, it is common knowledge that the World War has left Europe, and especially Southeastern Europe, in a less stable condition than it was before the opening of hostilities in 1914. Ordinarily, therefore, war does not settle disputes among nations.

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[28] Bogart, *War Costs and Their Financing*, pp. 8–9.

[29] *Readings in Public Finance*, pp. 48–50.

[30] U. S. Department of Commerce, *Statistical Abstract of the United States*, 1921, p. 747.

[31] Bogart, *War Costs and Their Financing*, p. 105.

[32] Bogart, *Direct and Indirect Costs of the War*, pp. 271–282; Folks, *The Human Costs of the War*, pp. 142, 195; Boeckel, *Between War and Peace*, pp. 401–412.

The second indictment of war is based on its wholesale destruction of life and property. Modern warfare is scientific. It employs the latest inventions and technical devices in its work of destruction. It is necessary to refer only to the newer, deadlier gases which have been perfected since the World War, and to the improvements in aviation. An entire city like Paris, or New York, could be blotted out by a successful air raid in a few hours. The airplane can be directed even without the aid of a pilot.

General Mason M. Patrick, Chief of the Army Air Service, declares: "We have developed automatic pilots so that airplanes can be sent off at a predetermined height and made to drop their bombs at a predetermined point. Or they can be maneuvered by radio with no pilot aboard. They may be carried across a continent by dirigibles and then sent forth on combat missions." [33]

The fear of extermination through modern war inventions is one of the dominant motives inducing the states of Europe to maintain the League of Nations. The case of Great Britain may be cited as an illustration. Great Britain has been raised to her eminence among the world powers by her navy. But the naval supremacy of Great Britain has been challenged by other nations, particularly by the United States; and, what is of still greater importance, the British navy is of little effectiveness in protecting the British Isles against submarine and airplane attacks.

Professor Alfred Zimmern, speaking at the Geneva Institute of International Relations in August, 1927, said: "Air power has completely altered our strategical situation and relationship to the Low Countries and to the Continent of Europe as a whole. We are no longer an island; we are as much exposed today in London as Nancy or any other town in Eastern France was before the War. Indeed, it has even been stated that London, with the Thames as a signpost, is the most exposed capital in Europe. Our old security is gone, with very important bearings on our foreign policy." [34] In conclusion, the speaker stated: "Interest, then, as I think, leads us into the League." [35]

The nations recognize that the final result of modern warfare is extinction. With the gases, disease germs, bombs, and airplanes which have been perfected by modern science, nations possess the power of exterminating one another. It is to be recalled that, under present-day economic organization, the civilian population actually becomes a part of the army. It practises self-denial and thrift in order to keep the military supply trains filled with food and clothing; and women work on farms, and in munition and war-commodity factories in order to release all available man-power for service in the field. Thus from an economic standpoint the entire nation is in arms. As a consequence, each belligerent carries on war against the entire population of its enemy. Recognizing these facts, the nations realize that every effort must be made to abolish war entirely, otherwise it will destroy the best that is in Western civilization.

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[33] *Literary Digest*, October 4, 1924, p. 13.

[34] Geneva Institute of International Relations, *Problems of Peace*, 2nd Series, p. 308.

[35] *Ibid.*, p. 310.

C. Two Extreme Positions Regarding War.—There are two extreme positions regarding war. The first is that of the militarist, the second that of the pacifist. The militarist glorifies war and its achievements. He does not merely justify it, but declares that it is necessary for the progress of humanity. He says: War eliminates the weak and gives the earth to the strong; without it there would be no struggle for superiority, and stagnation and mediocrity would result. Moreover, he says, war helps to prevent the over-population of the earth. This philosophy is clearly a combination of the evolutionary theory of struggle—a purely materialistic conception of life, denying Divine Providence—and the unwarranted hypothesis that the world is over-populated. To refute the militarist philosophy adequately would require an extended discussion of each of these assumptions, which cannot be undertaken here. The student is referred to such manuals as Rickaby's *Moral Philosophy,* Ross's *Christian Ethics,* Miltner's *The Elements of Ethics,* Plater's *A Primer of Peace and War,* and Devas's *Political Economy.*

One of the most baneful effects of the militarist philosophy is the creation of the fatalistic belief that war is inevitable. This belief is perhaps one of the greatest obstacles to the promotion of peaceful relations among peoples. To say that war is inevitable is a counsel of despair—a denial of the possibility of progress. On the other hand, the need and capacity for progress are admitted by all, even by the extreme militarists, who say that war is necessary to promote civilization and welfare.

The second extreme attitude regarding war is that of the pacifist. The term ''pacifist'' is used here to designate those who deny the theoretical lawfulness of war under any circumstances. It is not used in the loose sense that is popularly attached to the word, that is, including all persons who aim to promote peace. Strictly speaking, a pacifist is one who declares that war is inherently wrong and can never be justified. This position cannot be defended on rational grounds. The rights of a nation to defend itself are not essentially different from those of an individual. The individual's right to defend himself, even by inflicting death on an unjust aggressor, is as fundamental as his right to life. It is true that every government provides a police system and a militia to protect life, and, consequently, no private citizen may take the law into his own hands when he is attacked. Nevertheless, when ordinary police protection is not available, he may repel an unjust attack with violence and even cause the aggressor's death, if this is necessary to protect his own life.

The same applies to a government. It has also the right to inflict death on an unjust aggressor, if this be necessary to protect the essential human rights of its citizens. An unjust government, however, that is, one that oppresses its subjects, does not possess this right. Such a government has no real right to defend itself, nor even to exist; in fact, ''invasion'' may mean the liberation of its people. But a just government has a right to defend its people by armed force, if necessary. It will retain this right, even when the most elaborate system of world arbitration is devised, provided, however, that the agencies of the world tribunal are temporarily or permanently unable to provide necessary protection.

D. Conditions for a Just War.—To say that war is lawful is, however, not the same as saying that every war or even most wars are lawful. In fact, very few wars of the past have been lawful. Justice requires the following conditions for the moral lawfulness of war: (1) It must be declared by sovereign authority; (2) the war-making state must have a right intention; and (3) the cause for going to war must be just.

The first of these conditions needs no extended discussion. Quite clearly, a war cannot be justified if it is declared by only one faction in the state, without the approval of the recognized government. The call to arms must be issued by the responsible head or heads of the government, otherwise great internal disorder will result and the losses will be greater than the gains. The second condition will also be readily understood. A nation cannot lawfully declare war if its intentions are not honest. Thus to provoke the savage peoples of Africa into war, in order to subjugate them and seize their gold and diamond mines, is a clear example of the lack of a right intention.

The third condition, namely, that requiring a just cause, is far more difficult to apply. For all practical purposes, a ''just cause'' exists only when the home country seeks to protect itself against foreign aggression. But the condition of a "just cause," even when a country is about to be attacked, is itself hedged in with several conditions. First, the people must be *morally certain* that the hostile nation is seeking to harm them. Consequently a "just cause" requires more than a mere surmise that an attack is going to be made. General impressions about the intentions of the opposing nation based on its past history, are not sufficient. There must be well-grounded knowledge that the opposing nation is attacking, or is about to attack the country.[36]

Cardinal Bellarmine (1542–1621) discusses the moral responsibility of those who engage in a war without being firmly convinced of its justice. His teaching may be summarized as follows. The reason for going to war may never be trivial or doubtful, but must be weighty and certain (*non levis, neque dubia sed magna et certa*). When the heads of governments are in doubt about the justice of a war, they sin gravely by beginning or continuing hostilities. Since war is an act of punitive justice, it is unjust to punish one whose guilt is not yet proved. The soldiers who question the adequacy of the grounds for going to war, do not sin by bearing arms, unless they are absolutely certain that the enterprise is unjust (*nisi constaret certo bellum esse injustum*). In a similar way, a public executioner is justified in the performance of his duty, except in the case of a condemned person, of whose innocence he is absolutely certain; for it is not the executioner's duty to analyze the evidence of a court. This is the duty of the judge, who sins gravely if he condemns a prisoner to death, when there exists fairly well-founded doubt as to his guilt.[37]

The condition of a "just cause" also requires a nation to make every honest effort to secure redress or protection by peaceful means before it declares war. This is a corollary of what was said above, namely, that a "just cause" is practically synonymous with self-protection. The refusal to use peaceful means instead of war, is a refusal to use reason instead of force, and force necessarily means the destruction of lives and property which might otherwise be saved. Unwillingness to employ arbitration and conciliation before resorting to war is, therefore, sufficient to make a war unjust.

The same reason, namely, causing the destruction of life and property that might be averted, implies a further condition for the lawfulness of war. This condition declares that an aggrieved country may not declare war unless it has a well-founded hope that it will be victorious. In the absence of such hope, war may be national suicide. Finally, a "just cause" requires that the good to be gained by waging war must bear some proportion to the evil which war necessarily entails. If, for example, the good to be gained is only the redressing of some slight affront to national honor, such as discourtesy to a military officer, or the ownership of a small strip of tropical territory, war is not justified. Incidentally, such slight causes are frequently used as pretexts by stronger nations to subjugate weaker ones.

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[36] Liberatore, *Institutiones Ethicae et Juris Naturalis*, Editio XI, Compendium, pp. 128–130.

[37] *Controversia II*, III, 15.

The foregoing conditions may be summarized by saying that a war is morally lawful when it is declared by a properly constituted government acting with a proper intention, and for a just cause. A just cause for war requires that: (1) war be necessary for self-protection; (2) the nation be morally certain that it is in the right; (3) the nation employ all peaceable means of settlement before it declares war; (4) there be a well-founded hope of victory, and (5) there be some reasonable proportion between the probable losses to be suffered and the good to be gained.[38]

When *all* these conditions are present a war is just. It is to be emphasized, however, that, today, in view of modern methods of warfare, ordinarily not more than one or the other of these conditions can be satisfied in a given crisis. For example, the second condition can, as a rule, be readily fulfilled; for, a nation easily convinces itself that it is in the right in a particular controversy. On the other hand, from a practical standpoint, neither the first nor the fifth condition can be satisfied today. Modern warfare makes use of tanks to spread deadly gases and chemicals, and airplanes to scatter bombs and disease germs.[39] The use of such methods practically means extinction. Obviously, the home country is not thereby protected, as the first condition requires. For the same reason, the fifth condition cannot be fulfilled today, namely, that there be a proportion between the losses, and the good to be gained. To repeat, it is hard to see how *all* the foregoing conditions can be fulfilled in any controversy at present, and, therefore, practically speaking, no war of modern times can be morally justified.

E. Disarmament.—Disarmament means the scrapping of the instruments of war or, at least, the discontinuance of the preparations for war. Those interested in the movement for disarmament aim at a condition of world peace by inducing the nations to disarm gradually to the zero point. According to this plan, the nations would agree to reduce the size of their standing armies, the size and number of their warships, submarines, and military airplanes; and, in addition, would publish their military and naval budgets at the beginning of each year. The plan is simple enough. But it is beset with many practical difficulties. First, there is the apparently simple matter of agreeing on the meaning of the term, armament. For example, a typewriter factory may be regarded as a munition plant, inasmuch as it can be readily equipped to manufacture machine guns. This illustration shows the fundamental difficulty of distinguishing between potential and actual armaments. This is only one of the numerous obstacles in carrying out the general disarmament program. What is perhaps still more perplexing is the task of working out a plan that will be acceptable to all the nations.[40] It is evident that no nation can disarm individually. All must disarm, or none can safely do so. If only a single nation refuses to disarm there will be suspicion, and incitement for the armament race to begin again. Although only a beginning has been made in the direction of disarmament, the movement has been a powerful aid in arousing public opinion as to the vast amounts of money that are being spent annually on war preparations, and to the threat that these preparations carry to world peace and well-being.

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[38] Catholic Association for International Peace, *International Ethics*, Pamphlet, pp. 23–31.

[39] Keller, *Kriegsächtung und Friedensrüstung*, Pamphlet, p. 8.

F. The Outlawry of War.—A more thoroughgoing peace measure than that of disarmament is the proposal to outlaw war. The outlawry proposal consists in organizing the nations to agree not to resort to war under any circumstances.[41] The outlawrists are critical of such institutions as the League of Nations, because the League holds war in reserve as its ultimate sanction. The outlawrist movement "asks that the United States enter into no league or alliance of governments whose covenants commit nations to the use of war in any form. It refuses to recognize the institution of war in any language, in any document."[42]

The movement for the unconditional outlawry of war has been making steady progress since the close of the World War. Its greatest victory was achieved in Paris on August 27, 1928, when fifteen nations signed a treaty renouncing war as an instrument of national policy. The treaty declares:

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[40] Shotwell, *War as an Instrument of International Policy*, p. 119.

[41] Morrison, *The Outlawry of War*, p. 21.

[42] Morrison, *ibid.*, p. 134.

Art. I. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Art. II. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

The treaty was signed by Germany, the United States of America, Belgium, France, Great Britain and the British Dominions, Italy, Japan, Poland, and Czechoslovakia. When the treaty became effective on July 24, 1929, thirty-one additional countries had declared their adherence to it.[43]

VII. PEACE AND ITS PROMOTION

The progress of the movement for world peace will depend largely on (A) education, and (B) international agencies.

A. Education.—The most necessary work for the promotion of peace is education. Like all educational activities, this work can progress but slowly. Moreover, it will be indispensable long after world tribunals are established. Educating toward peace involves the remaking of public opinion on international relations. Before peace is possible certain views will have to be modified considerably, others will have to be rejected outright.

Before any progress can be made in establishing world peace, it will be necessary for all peoples frankly to accept two basic propositions: (1) that the relations between states are subject to the moral law, and (2) that the sovereignty of no state is absolute.

1. In actual practice, few nations of modern times have admitted that international relations are subject to the moral law. For the most part, the populations of the various nations have acquiesced in, and approved of, the immoral policies of their statesmen in dealing with other nations. Clearly, British statesmen could not have exploited India, if at least the majority of the British people did not sanction this injustice. Other national injustices readily come to mind; e. g., the conduct of France in Northern Africa, of Belgium in Central Africa, and of the United States in the Spanish-American War. In each case, the statesmen assumed that

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[43] U. S. Department of State, Treaty Series, No. 796, 1929.

they had the backing of their home population; and probably their assumptions were correct. By a strange inconsistency, the average citizen, who would not sanction robbery, murder, or other injustice, approves of these acts when committed by his government. There is urgent need, therefore, of instructing the average man and woman in the basic truth that a nation, like an individual, is subject to the laws of justice and charity. (Cf. Chapters IV and V.)

A nation is not free to do whatever it chooses, simply because it is strong enough to do so, and there happens to be no nation powerful enough to resist it. It is bound by the Ten Commandments, especially, "Thou Shalt not Steal," and "Thou Shalt not Kill," in the same way that an individual person is bound by them. To disregard them will bring down moral retribution on offenders, whether they be whole nations or individual persons. In the case of nations, spiritual penalties are incurred primarily by the officials of an unjust government. Ordinarily, they escape temporal penalties, and the people must bear the consequences of official wrong-doing. This, however, is not the chief reason why moral guilt is chargeable in the first place to public officials. They are the principal agents of governmental injustice, and consequently must bear the chief burden of moral guilt.

2. The second question on which public thinking needs revision is nationalism. Because of the widespread vogue of the doctrine that the state is a quasi-divinity, the duties of patriotism have come to be regarded as religious duties. Closely akin to this doctrine is the theory that the state is absolutely sovereign and incapable of doing wrong.[44] It is clear that if the citizens of every country assume this attitude toward their government, arbitration and conciliation are rendered extremely difficult, if not impossible. What is necessary above all is that the general public of each nation recognize that its government is not absolutely independent of other governments, and that, for its own welfare, as well as for that of the entire world, it must yield some of its power to a parliament and court, set up by the associated nations of the world.

The reshaping of public opinion so that all peoples will regard international relations as subject to the moral law and that no people will consider its government as absolutely sovereign, constitutes the major task in educating toward world peace. It is not to be expected that this work can be acomplished in a few years. As in all vast educational enterprises, progress will be slow. But with proper education in the schools of the present generation, it can be reasonably expected that a new and enlightened attitude toward international relations will be developed in the future.

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[44] Hayes, *Essays on Nationalism,* Chap. IV.

A vitally important form of education that must be carried on before peace tribunals can function effectively is the promotion of charity and good will among the peoples of different nations. This work is fundamental. If there is a lack of charity and good will among the peoples of the world, it is idle to speak of international parliaments and courts. When suspicions and ill-will prevail among nations, war is the inevitable result. The first question that presents itself in this connection is the practical one: how can charity and good will be secured? Perhaps a beginning can be made toward promoting international charity, by searching for the causes that create ill-will and hatred among different peoples, and then by seeking to remove these causes.

The more important obstacles to good will are illustrated in two articles in the *Manchester Guardian Weekly* of January 7, and January 14, 1927. The writer, Mr. J. D. Beresford, an Englishman, describes the feeling of the French toward the English as he observed it during a three years' residence in France. The relations between the French and the English are fairly representative of the relations between other nations and their neighbors. The articles of Mr. Beresford, describing the hindrances to better understanding between France and England, will be quoted at length.

The first hindrance is the preconceived notion of the English that the French people are unfriendly to them. Mr. Beresford writes:

> Before I came to France at the end of September, 1923, I was warned by one or two of those kindly people who take an interest in advising their friends, that I must expect to find a certain animosity against the British, and that I should without question be insulted now and again. I believed that. I came over prepared to deal with the insult when it should be offered. I considered the kind of reasonable reply that could be made. For I am not one of those ardent spirits who believe that their national honor can best be served by returning insult for insult. Unfortunately—from one point of view—I am still waiting to test the effect of the reasonable reply on a typical Anglophobe. In the course of these years, during which I have been continuously resident in France, I have received nothing but politeness, attention, and a consideration often more marked than I should have received from my fellow-countrymen.

The writer, however, immediately qualifies this statement. He says: "Nevertheless those kindly friends of mine were not entirely wrong." He then describes some of the manifestations of ill-will toward the British that he had experienced in different parts of France, giving also the causes, insofar as they were chargeable to the French or British.

A second cause of ill-will has its roots in history. The French in Brittany have the memory of their territory being harried by British armies in the Middle Ages. On the other hand, the French in the Provençal have not. There is, in consequence, a less kindly feeling toward the British in Northern France than there is in the Southern districts.

A third cause of ill-will toward the British is economic, but it is of a very specialized kind. It is directed against the propertied classes of Great Britain. Anti-British demonstrations occurred at Cannes in 1924, because the British "dissipate on the Riviera the ill-gotten money gained by exploiting slave labor in coal mine and workshop." This agitation, according to Mr. Beresford, was the work of Communists. Clearly such outbursts were prompted by hatred for a single class in England, namely, the well-to-do, and not for the entire British people.

A fourth cause of anti-British feeling is the press. The writer says:

> Everyone will remember that old caricature of us that had so long a life on this side of the Channel, the man with the big nose and the projecting teeth, dressed in checks with a helmet-shaped cap, and enormous feet. Originally he had whiskers which approximately date his origin, though they survived the fashion. . . .

This description illustrates the power of the cartoon and the sensational newspaper. It should be recalled that many honest, simple folk who have no opportunity to travel, accept the newspaper caricature of foreigners for the reality, at least they regard the more exaggerated features as somehow genuine. Moreover, newspapers find it profitable to flatter the vanity of the home population, by misrepresenting other peoples. This is what Bismarck called "international window-smashing," but, as he pointed out also, every country must pay for the windows that its newspapers smash.[45]

A fifth cause of ill-will is more fundamental. It is the conviction that, as compared with one's fellow nationals, foreigners are of inferior stock.

Mr. Beresford writes: "The beginning of all the trouble lies, I believe, in this preconceived notion of the French, by a certain type of English tourist, as being hostile, essentially untrustworthy, and certainly inferior as a nation. . . . And until we can get rid of this preconception in English minds we cannot expect to eliminate a sense of hostility, resentment, and a defensive contempt from the minds of the French."

The writer continues: "I cannot acquit the French of blame in this. They, no less than ourselves, are very ready to regard differences of national character as inferiorities." In other words, the British regard the French as inferior, and the French regard the British as inferior.

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[45] Foreign Policy Association, *The Press, Its Responsibility in International Relations,* Pamphlet.

The articles just quoted reveal five fruitful sources of uncharitableness and ill-will among nations. They may be summarized as follows: (1) Suspicion of foreign peoples based on a defective knowledge of them. (2) Resentment in certain parts of a country toward another country because of defeats suffered in past wars. (3) Hatred of the working classes of one country for the leisured classes of another. (4) Conscienceless journalism, catering to ignorance and prejudice. (5) Belief that foreign peoples are inferior to one's own.

These conditions are serious obstacles to charity and kindly feeling among nations. The work of promoting charity may, therefore, properly begin by removing the causes which produce them. The means to be employed cannot be discussed in detail here. It is enough to suggest that concerted action by the Church and the schools in the various nations would go a long way in breaking down these barriers to charity, and in promoting the cause of peace.

B. International Agencies for Maintaining Peace.—If the populations of the various nations of the world have the will to live in peace with one another, peace will prevail. "Peace can always be kept among peoples that wish to keep it." Sooner or later, governments must yield to the demands of their peoples. The first step toward universal peace through international action will doubtless be taken in the direction of limiting armaments. This will necessarily involve an increased use of diplomacy, mediation, and arbitration. Some of these agencies for maintaining peace will be considered briefly.

The most practical proof of the desire of nations to live at peace with one another will be shown in an agreement to level down their war expenditures. Nothing breeds suspicions and fears in a country, as do reports of increased war budgets in foreign lands. On the other hand, nothing begets good will and confidence as does the willingness of foreign nations to curtail preparations for war.

The first Hague Conference adopted the following resolution:

> The Conference is of opinion that the restriction of military budgets, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.[46]

Mere disarmament, however, will not suffice to maintain peace and orderly relations among the nations. The simple device of outlawing war is equally inadequate. It is true that most of the nations have solemnly renounced war as an instrument of international policy. But something must be set up in its stead. C. Howard-Ellis writes: "The idea that war is a normal and necessary part of civilization has been repudiated by practically every government, and the overwhelming majority of public opinion, and the idea of so shaping human society as to eliminate war now appears not only reasonable but essential. But to anyone who reflects it becomes fairly clear that peace is not to be had by aiming at it directly, by conceiving of it as merely the absence of war." [47]

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[46] Plater, *A Primer of Peace and War*, p. 169.

In addition to disarmament there is need of a world tribunal to adjust disputes, and what is equally essential, a permanent law-making body. Of itself a court cannot administer genuine justice and equity; it must have certain definitions and standards provided for it by a legislature. Moreover, these definitions and standards must be changed from time to time to meet the changing relationships among nations. This is the work of a legislature. In fact it is one of its most important duties. If a legislature fails in this work, a court is forced to administer existing laws, which can only mean the perpetuation of the *status quo* and its accompanying injustices. Hence an international legislature is at least as important as a world court in administering justice and equity among nations and promoting international welfare. It should be added that a world court will also make use of the services of diplomats and mediators when emergencies arise. Diplomacy and mediation will be employed whenever possible, but, when these fail, the differences will be submitted to the international court for arbitration, and the decision of this court will be final.

A formal peace program has been drawn up by Mr. Justin McGrath. It proposes that treaties with all countries be negotiated, containing the following provisions: (*a*) That a formal severance of diplomatic relations and a declaration of war shall be made before any overt act of war is committed. (*b*) An ambassador of peace shall be received within 30 days after the regular ambassador has been handed his passport. (*c*) After the peace ambassadors have made their pleas each nation shall be allowed 15 days for an answer; and if either nation proposes arbitration the other nation shall be virtually obliged to accept. (*d*) The arbitral board shall be an existing body such as the World Court, or a new commission chosen by mutual agreement. (*e*) An international economic conference shall be held every four years, in order to avoid trade disputes which might lead up to war.[48]

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[47] *The Origin, Structure and Working of the League of Nations*, p. 19.
[48] *Thought*, March, 1928.

This program, like others of its kind, has the one central aim of gradually abolishing war as an instrument for settling international differences. Up to the present time, war has been regarded as an enterprise that any nation was free to undertake, no matter what the opinions of other nations might be. The new conception of international order is that war is a world concern, and that every nation has a right to be consulted when peace is to be disturbed by war.

General Tasker Bliss, Chief of Staff, U. S. A., 1917, writes:

> Civilization differs from barbarism not in the abolition of force, but in the replacement of lawless force, applied at arbitrary will, by force which is regulated and applied by the laws of the community concerned. . . . In our domestic law we prohibit force applied at arbitrary will. We make it criminal, and we declare the one who uses it to be a criminal aggressor, and we punish him regardless of the merits of his case in the dispute which led to his act.
>
> But, of course, along with that we had to provide some other way for him to settle his disputes, which we did. His criminal aggression is in the fact, when it is a fact, that he refuses this other way and resorts to force.[49]

The analogy between the method of maintaining order within a nation and the method of maintaining order among nations is valid. Within every nation, the courts take over the work of adjusting differences among individuals according to the standards of justice fixed by legislatures. If a man finds that his neighbor has built a fence on his property he does not "fight it out" with him. The adjustment of such differences is the work of the courts, which have jurisdiction over all acts that disturb the public order. In this way actual feuds and dissensions are settled, and, of greater importance, numerous feuds and dissensions are averted.

Among the nations the methods of settling quarrels and dissensions have in the past been of an entirely different nature. If a nation felt that it had been wronged, it declared war on its enemy, and proceeded to fight until it, or the enemy, was exhausted. But it is to be repeated that the decision made by war is a decision made by force and brute resistance. In exceptional cases justice may be secured in this way, but in the overwhelming number of cases it is not. Thus it is evident that the machinery for attaining justice in international relations is far behind that for attaining justice in domestic affairs. It is necessary, therefore, to bring the relations among nations under the jurisdiction of a world association and court, which will administer justice and equity among the nations, just as the courts in each country administer justice and equity among the home population.

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[49] Proceedings, Academy of Political Science, July, 1926, Vol. XII, No. 1, p. 20.

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QUESTIONS FOR REVIEW

1. List all of the ways in which nations are brought into close relations and point out the significance of each.
2. Compile from the Statistical Abstract of the United States the statistics of the trade of the United States with each of the great nations.
3. Give the good and bad results of the increased interdependence of nations.
4. Define nationalism and explain its development.
5. What are some of the evil effects of an exaggerated idea of the national state.
6. In what does genuine national greatness consist?
7. Define internationalism; when is it true and when false?
8. By what means is nationalism harmonized into internationalism?
9. What is international law?
10. Define international arbitration; mediation.
11. How were the Alabama claims of the United States against England settled?
12. Give the facts of the Hague Conference of 1899 and 1907.
13. Outline the origin and the organization of the League of Nations; the World Court.
14. Should all states, large and small, have the same representation in the League of Nations?
15. Would the settlement by the League of Nations of questions involving Central and South American countries be contrary to the Monroe Doctrine?
16. Discuss the theory of world association.
17. Distinguish between a "world state" and a "world association."
18. Define the term "super-state."
19. What are the two main objectives of a world association of states?
20. Are the actions of a government subject to the same ethical standards as the actions of individuals?
21. How may international justice be secured?
22. In what respects are nations equal?
23. What is meant by international welfare? How may it be promoted?
24. What are the costs of war: material, human, social?
25. Define the extreme positions of the militarist; the pacifist.
26. What are the conditions set down for a just war?
27. What is meant by outlawry of war?
28. Discuss the slogan, "War to end war."
29. Define disarmament and show the difficulties of bringing it about.
30. What are the principal effective means of promoting peace among nations?
31. How can charity and good will be increased among peoples?

32. Has the press any responsibility with reference to war and peace?
33. Show the relationship of education to international peace.
34. What courses could be given in schools to break down misunderstanding and ill-will among nations?

CHAPTER XIII

Property—Historical Development

I. DEFINITION OF PROPERTY

II. PROPERTY AMONG PREHISTORIC AND LIVING UNCIVILIZED PEOPLES

A. Prehistoric Peoples
B. Living Uncivilized Peoples

III. THE MODERN SYSTEM OF PROPERTY

A. Origins of Modern Capitalism—B. Changes in Industrial Society—C. Summary of Preceding Factors

IV. THE PRESENT DISTRIBUTION OF WEALTH

A. Use and Distribution of the National Wealth—B. Sources and Distribution of the National Income

V. THE CONCENTRATION AND CONTROL OF WEALTH

A. The Actual Ownership and Control of Wealth—B. The Concentration of Wealth and Public Welfare—C. Summary

In preceding chapters it was seen that family life and organized government are indispensable to the development of personality and the maintenance of order in society. It was seen also that family and government find their origin in the nature of man because they are willed by God, Who is the author of human nature. Broadly speaking, the institution of property is also rooted in man's nature, and therefore willed by its Divine Author.[1] Not every property system, however, is required by human nature or social welfare. In fact, some systems are highly prejudicial to private or public well-being. When it can be shown that a property system works to the detriment of society, it follows that this sytsem is opposed to divine law; for God is the Author of social as well as of individual welfare. For example, the right of one man to own half, or more, of the land of a country is not sanctioned either by natural or divine law. The obvious reason is that the opportunity for a proper livelihood is thereby closed to thousands, or perhaps millions, of other men. In a word, the right of ownership is not merely individual; it is also social. The right of any person to own property is limited by the rights of every other person in the community.

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[1] Garriguet, *Manuel de Sociologie*, p. 139.

This chapter will discuss the institution of property from the following points of view: I. Definition of property. II. Property among prehistoric and living uncivilized peoples. III. The modern system of property. IV. The present distribution of wealth. V. The concentration and control of wealth.

I. DEFINITION OF PROPERTY

Property is the object or thing over which a person exercises ownership. It is probably derived from the Latin, *prope,* meaning near, or close to. The word, *prope,* conveys the idea that the owner enjoys a certain relationship to what he calls his property. For example, when a man says, ''That house is my property,'' he means that he has the right to live in it, and within the limits of the law, to do with it whatever he pleases.

The concept of property is quite simple; that of ownership, however, is more complex. Ownership may be defined as the right to dispose of material things as one chooses, except insofar as this right may be limited or canceled by divine or human law. Ownership is a right, that is, it is a moral power. Only persons can own property, because they alone possess rights. Professor Ely tells of a tree in Athens, Georgia, which is erroneously regarded as owning the land upon which it stands. The original owner of the tree, one Colonel W. H. Jackson, was so attached to it that at the time of his death in 1820, he recorded a deed conveying to it the land described by a radius of 8 feet from its trunk. The document has had no legal effect, although the tree has been permitted to retain its ''property'' as an object of curiosity.[2] This may illustrate the central truth that one thing cannot own another thing, because there is no essential difference between two material objects such as exists between a person and a thing. The same reasoning applies to animals, which are unable to own property. As was seen in Chapter III, man alone has rights, and consequently, he alone has the right to own property.

Property confers an exclusive right on its owner. This does not mean that an owner is free to do anything he chooses with his goods to the absolute disregard of others. For example, a city resident may not burn down his house, nor even make additions to it, without a building permit, requiring him to meet certain health and safety standards. In other words, the term ''exclusive'' does not mean absolute. Exclusiveness, however, permits an owner to use and dispose of his property as he chooses,—consume it, sell it, give it away, or bequeath it. Within the limits of legitimate use his right is absolute, and others may not molest him. Others would commit an injustice were they to take his property without his consent. To this extent, an owner's rights are exclusive. Nevertheless, as was said above, property has social as well as personal aspects. Hence certain restrictions on property rights are imposed in the sovereign interest of society. These restrictions are implied in the words of the definition of ownership given above, *except insofar as this right may be limited or canceled by divine or human law.* All limitations on property rights are dictated by the necessities of public well-being, or, as the Roman jurists said, *Salus publica suprema lex,* public welfare is the sovereign law. Christian teaching is still more explicit. Both the New Testament and the early Fathers of the Church taught that property is a trust or stewardship.[3]

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[2] *Property and Contract in their Relations to the Distribution of Wealth,* I, p. 96.

The right of an owner to at least some of his property may be limited or canceled in various ways. For example, the supreme law of God nullifies the right of A to a part of his property, if he has an over abundance, and B or C or D is in grave need. In this case A's right to a portion of his goods automatically ceases. It also becomes necessary to limit property rights in a country where great wealth is centralized in the hands of a very small number of persons, and the great masses of the population are living in poverty. Modern states aim to correct this evil by imposing proportionately high rates of taxes on large incomes and inheritances.

The right to own property is either abstract or concrete. All persons have the abstract right to own property because they are persons. In order to make his abstract right concrete a person must have a title to a definite good. To illustrate, a tramp has the abstract right to own property, although he lacks the concrete right of ownership of some specific property. But if, by some good fortune, he inherits a farm or an apartment house, he acquires a concrete right to these goods by the title of inheritance. Other titles by which the abstract right of ownership becomes concrete, include the wage contract, purchase, investments and risks, and donation. Through one or the other of these titles a person acquires a fixed right to a given appropriable good.

[3] Ryan, *Alleged Socialism of the Church Fathers,* p. 38, *et passim.*

Another distinction is of importance here. It is the distinction between the private and the public ownership of property. Private ownership refers to the right of a private person to have exclusive control over certain goods, such as a house and lot, furniture, farm, animals, factories, stocks and bonds, or automobiles. Public ownership refers to the right of a political unit, such as a city, state, or nation, to have exclusive control over goods. Among goods owned publicly are streets and roads; public moneys; parks, libraries, and museums; street car, bus, and railroad lines; and water, gas, and electric power systems.[4] The greatest controversy regarding ownership arises over the question as to how far the Federal, State, or Municipal governments should go in acquiring and owning goods, and how far individual citizens should be left free to acquire and own them. Obviously, the more goods owned by the general public, the less individual citizens can own, and vice versa.

II. PROPERTY AMONG PREHISTORIC AND LIVING UNCIVILIZED PEOPLES

A. Prehistoric Peoples.—The term "prehistoric" is applied to the long period of time from the beginning of the human race up to the era when history began to be *written* on stone, tombs, monuments, or parchments. Prehistoric times are literally prehistoric, that is, they were the times *before* there was any history. As there are no records coming down from prehistoric times, it is evident that no one can say positively what form of ownership prevailed among prehistoric men. Those writers who set out with the evolutionary formula that every social institution in present-day society has passed through a series of transitional stages, beginning with the opposite of that existing today, maintain that the highly developed institution of private ownership prevailing in the modern world has evolved through an evolutionary series from an original state of absolute communism. These writers hold that from the time that the first men and women began to migrate from some Eastern portion of the Old World into Europe, Africa, and America, up to the time when the earliest historical records were made in the Nile Basin, there was no private ownership of goods, but only tribal or communal ownership.[5] From this period, according to the social evolutionists, a gradual development of property has taken place, leading up to the highly accentuated form of private ownership which obtains today. The essential weakness of this hypothesis is that it is purely *a priori,* that is, it lacks all factual evidence. Nothing is known of the property practices of prehistoric man, as there are no available data covering the period before history was written.

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[4] Ely, *op. cit.*, Vol. I, p. 102.

[5] Watson, *A New Census and an Old Theory, Division of Labor in the Preliterate World, The American Journal of Sociology,* Vol. XXXIV, No. 4.

The hypothesis of a primeval system of collectivist ownership, therefore, lacks all prehistoric evidence. But one is warranted in making more than this negative statement. In view of the rather elaborate property systems of living uncivilized peoples it is permissible to say that prehistoric men practised private ownership to a considerable degree. This conclusion is based on the fact that living uncivilized peoples are at present in a state of culture which is as low as that of known prehistoric peoples and, in some instances, probably very much lower.[6]

Even Herbert Spencer, an outstanding proponent of social evolution, writes: "Passing to the essential question, however, I find myself here at issue not with Sir Henry Maine only, but with other writers on primitive social states, who hold that all ownership is originally tribal, that family-ownership comes later, and ownership by individuals last. As already implied in paragraph 292, the evidence leads me to believe that from the beginning there has been individual ownership of such things as could without difficulty be appropriated."[7] Apart, however, from opinions favoring either private or communal ownership in prehistoric times, it is to be repeated that there is no factual foundation for the theory of an evolutionary series of ownership. Moreover, the theory is refuted insofar as conclusions drawn from living uncivilized peoples are valid. The property systems of these peoples will now be reviewed briefly.

B. Living Uncivilized Peoples.—Living uncivilized peoples include the rude tribes inhabiting Southeastern Asia and the adjacent island districts, and parts of Africa and of South America. Some of these peoples are still in a nomadic state; others practise a very simple form of agriculture. The least advanced live by hunting and fishing, digging roots, and gathering herbs and fruits; whereas, the more advanced live in villages, and gain a livelihood through a very rudimentary type of agriculture. The first question that presents itself is: Do these peoples own property privately or collectively? Before answering this question it may be noted that all appropriable wealth falls into two categories: (1) land and (2) chattels and personal belongings.

1. *Land Ownership.*—It is impossible to make a general statement regarding land ownership that will apply to all living uncivilized peoples.

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[6] Carr-Saunders, *The Population Problem*, pp. 131, 133.

[7] *Synthetic Philosophy*, Vol. I, p. 701.

Property customs differ among tribes according to their social organization, climate, soil, and degree of culture. Among some peoples there is a strictly private ownership of land; among others there is communal or tribal ownership. Thus, W. H. R. Rivers reports that in Melanesia, where the power of the tribal chieftains is less absolute than it is in Africa among the Bantus, there is a marked tendency toward individual ownership of land. In Melanesia, the head of the tribe has practically no function with reference to land, whereas in Africa, and particularly among the Bantus, the chief is virtually the owner of land, or, more accurately, he has the power to assign its use among the tribesmen.[8] The following analysis of fifty-five savage tribes, made by Professor Hobhouse, gives a sufficiently accurate picture of land tenure among early-culture peoples. ''Among fifty-five tribes of 'hunters and gatherers' as to whose property system I have found some account, forty-four appear to hold land either as property of the tribe or of a smaller group—clan, village, or band—within the tribe. Of the remainder five are the Australian tribes in which ownership is attributed to the family, and there are left six cases of individual ownership, to which perhaps a few more Australian cases ought to be added. In two or three instances ownership is attributed to the chief, but this seems to be rather as the representative of the community than as true personal property.''[9]

The systems of land tenure now prevailing in primitive society can be described best by dividing all uncivilized peoples into three classes: (1) hunting peoples; (2) pastoral peoples; and (3) agricultural peoples. This division is somewhat arbitrary, as some tribes belong to one group, and to one or both of the others at the same time. But most primitive tribes are dominantly or exclusively in one of these three classes, and the division is sufficiently accurate for practical purposes.

It might be supposed that the individual ownership of land is unnecessary or impossible among peoples who support themselves by the chase. But this supposition is true for only a few hunting tribes, and not for all. Communal ownership in land is found among only a small number of peoples, for example, among the Plains Indians. These tribes, however, are not typical primitives. Some form of individual land ownership is found even among many or most of the hunting tribes who live at the lowest cultural level.[10] The Veddas of Ceylon are a typical low-culture hunting people. The boundaries of their hunting grounds are carefully defined, as belonging to particular families. According to the Seligmanns, a hunter would not be allowed to hunt in his own brother's woods without permission. Precise rules governing the transfer of land are also observed among the Veddas. Land can be sold only to children and sons-in-law, but the consent of every member of the family is required for the transfer. Similarly, among other hunting peoples, the Kariera of Australia for example, a well recognized system of individual land-ownership is in force.[11] It may be said, therefore, that individual, as distinguished from communal, land ownership is fairly common among savage hunting peoples.

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[8] *The History of Civilization*, p. 108.

[9] Various Writers, *Property, Its Rights and Duties*, p. 15.

[10] Lowie, *Primitive Society*, p. 211.

Among pastoral peoples, on the contrary, communal ownership of land seems to be the rule. While individual tribesmen ordinarily retain their flocks as private property, pasture lands are considered the property of the entire tribe. Consequently, where communal ownership of land exists, it is the outgrowth of the peculiar conditions in which the people live. Under this system, the occupation of pasture land by a herdsman is acknowledged as a title of ownership, but when the land is abandoned for richer fields, it becomes the property of the tribe until it is again occupied by another herdsman.

Among agricultural peoples the system of land tenure varies considerably from tribe to tribe. Permanent private ownership, tribal ownership, and leasing systems are found. It is impossible to make any general statement applicable to all primitive tribes now in the stage of agriculture. The wide differences in practice are to be ascribed to marked differences in local traditions, social organization, and size of the tribe, but principally to the fact that such tribes are seldom purely agricultural. Tilling the soil, herding flocks, and hunting and fishing are, as a rule, practised by all tribes, although each tribe may make one of these occupations its dominant interest. Allowing for these differences, it can be said that when a people is dominantly agricultural, a man acquires the ownership of uncleared land by tilling it, and retains a property right in this land as long as he works it. He has an unlimited possessory right to a piece of land that he works, and may even bequeath it to his heirs. But if he abandons it during his lifetime, his fellow tribesmen are free to cultivate it. This arrangement is not uncommon among the rudest agricultural peoples. On the other hand, when true communal ownership of land prevails, the tribe itself is found to be not truly primitive, but considerably advanced in cultural life. Professor Lowie summarizes his extended discussion of primitive land tenure: "Thus the intensive study of a single, though vast area, leads to an historical reconstruction that directly contravenes the sociological dogma of a primeval communistic tenure. This condition appears not as a universal but as a highly specialized case, as a late rather than an early development.''[12]

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[11] Lowie, *op. cit.*, pp. 213–214; also Various Writers, *op. cit.*, p. 14.

2. *Chattels and Personal Belongings.*—Chattels and personal belongings include the entire range of goods exclusive of real estate: viz., huts, clothing, weapons, articles of personal adornment, and even incorporeal goods, such as, songs, magic formulas, and family legends. The Seligmanns found that the personal estate of a Vedda tribesman embraced: ''One axe, bow and arrows, three pots, a deer skin, a flint and steel, and supply of tinder, a gourd for carrying water, a betel pouch containing betel covers, and some form of box for holding lime, also a certain amount of cloth besides that on the person.'' Referring to this list, Professor Hobhouse says: ''To these personal belongings a man has a right in the sense in which rights are recognized by simple societies. Theft would, at lowest, be resented by the individual, and there would be a customary form of reparation which he would exact.''[13] Making a more general statement to include all barbarian and savage peoples, he writes: ''In the general sense here given property is found in every known society. A man's clothing, weapons, and tools, a woman's ornaments, the family hut or cave, or at least a marked portion thereof, are from the first recognized as belonging to the man, the woman, or the family.''[14]

Professor Goldenweiser is equally emphatic as to the private ownership of goods among peoples of the very lowest cultures. He says: ''Contrary to a common assumption, both individual and communal property exist wherever man is found. Objects of wearing apparel, unless ceremonial in nature, tools and weapons, are everywhere owned by individuals.''[15] Professor Lowie arrives at the same conclusion. After carefully detailing the practices of various tribes as to the ownership of live stock, pottery, implements, and boats, he concludes: ''In short, with regard to chattels separate proprietorship is seen to predominate.''[16] Further citations are unnecessary, as there is uniform agreement among representative ethnologists that the private ownership of movable goods is general among living uncivilized peoples.

The evidence therefore is full and complete for the existence of some form of private ownership, whether of land or movable goods, among all low-culture peoples. Even the nomadic savages who live by hunting and gathering, and who have no fixed abodes, respect property rights in personal goods, and, in many instances, in land. These facts create a very strong presumption that the peoples of prehistory did not practise communal ownership exclusively. It is generally well established that the culture of prehistoric peoples was higher than that of some of the savage tribes living today. Among the latter, however, private ownership is general. Hence it may be assumed that private ownership was also general among prehistoric men. The hypothesis, therefore, of an original condition of communal ownership, as proposed by the social evolutionists, not only lacks positive evidence from prehistory but, in view of the practices of living uncivilized peoples, is in all probability false.

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[12] *Op. cit.*, p. 233.

[13] Various Writers, *Property, Its Rights and Duties*, p. 11.

[14] *Op. cit.*, p. 11; see also Hobhouse, *Social Development*, p. 283.

[15] *Early Civilization*, p. 137.

[16] *Primitive Society*, p. 235.

III. THE MODERN SYSTEM OF PROPERTY

The preceding sections sketched briefly the institution of private property among prehistoric and living primitive peoples. The purpose of this outline was to show that uncivilized man, like his civilized brother, has an interest in property. The reason for this interest is evident. Both uncivilized and civilized peoples provide themselves with goods in order to meet the present needs of life, and the contingencies of the future. In fact, this purpose may be considered the primary motive for owning property. It is to be noted, moreover, that all peoples find it necessary to recognize property rights in order to maintain peace and order. By keeping in mind these features of property, common alike to civilized and uncivilized nations, the property system of modern society can be appraised at its true value.

The property system of modern industrial nations is called capitalistic. In a system of capitalism two things are to be carefully distinguished; first, the theoretical rights that the system concedes to all individuals, and secondly, the state of affairs that actually results from the system. The theoretical rights that capitalism concedes to every individual are unlimited in scope. Capitalism tells every individual that he may go on accumulating property, and add million to million; and that only the minimum of restraint will be imposed upon him. At first sight, this arrangement appears just and equitable. But it is condemned by its effects. The actual state of affairs that it creates, is that a very small percentage of persons come to be the owners of most of the appropriable goods in society; and although a second group, considerable in size, enjoy moderate comforts, a third group, who form a very large minority, are left all but propertyless. The inequitable distribution of wealth, however, is not the distinctive feature of capitalism.

The essential characteristics of capitalism appear from a comparison of the capitalist system with the property régime of uncivilized peoples. In the simplest primitive society, land is accessible to those who will work it; and rude tools can be easily made. The tribesman owns both the land and the tools; they are his means of securing a livelihood. He employs himself. But under a capitalist system things are quite different.[17] Here the average worker labors with the tools owned by some one else, and he is under the control of their owner. An identical arrangement is found among some of the advanced barbarian peoples, where leaders amass great tracts of land and the rude implements for their cultivation. The tribesmen in some cases, work as slaves, for the chieftains who own this wealth, and receive little more than their keep. The feudalism of the Middle Ages also bears many points of resemblance to modern capitalism. The villeins and serfs were frequently propertyless, and secured their livelihood by working the farms owned by the feudal lord. To repeat, the outstanding feature of capitalism is not necessarily the unequal distribution of wealth,—although this usually results from the system,—but the fact that the worker labors with property owned by others. He does not employ the property of an owner; an owner of property employs him.

A. Origins of Modern Capitalism.—Modern capitalism had its origin in the Industrial Revolution, which began in England in 1770. The Industrial Revolution is called a *revolution,* because it overthrew the existing system of production and supplanted it with a new one. It swept away hand and home manufacturing, and replaced them with mechanical devices driven by power. The shock of the change was so great that, even after a lapse of 150 years, the nations have not adjusted themselves to the new order of things.

The immediate cause of these changes were the revolutionary inventions which appeared in England from 1760 to 1825. The earliest of these inventions were Hargreaves' spinning-jenny (1764); Arkwright's improvements in roller spinning, through the use of horse and water power (1770); and Cartwright's improvements on the power loom, which completely changed the method of making cloth and fabrics. About the same time Watts developed the steam engine, which made it possible to apply steam power to factory machinery. Finally, the experiments that had been going on with the steam locomotive, proved successful, and by 1825, the first steam railroad began carrying passengers and freight.

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[17] Hobhouse, *Social Development,* p. 290.

The three agencies which made these inventions possible, and in addition, turned them to profitable account were steam, coal, and iron. Applied in combination to manufacturing, mining, and transportation it is not too much to say that they have changed the face of Western civilization. In this change two results stand out prominently: first, the creation of an incredibly enormous volume of wealth; and secondly, the concentration of wealth and power in the hands of a relatively small number of persons. In broad outline this is the background out of which modern capitalism has emerged.

The effects of the Industrial Revolution appeared much later in the United States than in England.[18] When the new inventions were first introduced into England, the United States was still a colonial country. In the Colonies there was little manufacturing to be revolutionized, whereas, in England the hand industries had already been developed to a considerable extent. In the early colonial period in the United States, the artisan traveled from one farm or plantation to another. Later, as towns grew up, he plied his trade as boot and shoemaker, wagon-maker, or plow-maker in the towns to which the farmers came to market. Still later, his hand-made goods were shipped by canal, wagon, or coastwise vessels, and, finally, by rail. It was only after the year 1830, that the factory system came to be a serious method of production in the United States,—some fifty years later than in England. Moreover, the American railroads were not carrying goods for a distance of 1,000 miles until the decade following 1850. In general, England's factory industries antedated those of the United States by at least fifty years.

B. Changes in Industrial Society.—Because of the convulsive changes in the methods of production in the nineteenth century, property underwent fundamental modifications. More specifically, it assumed new functions. These can be described best by reviewing the more prominent social and economic changes that followed the introduction of the new methods of producing and distributing goods. The principal changes were: (1) the substitution of the factory system for domestic and hand manufacture; (2) the widening of the areas of markets; (3) the new relationship between employer and workers; and (4) the conflict between urban and rural interests.

1. The early decades of the nineteenth century witnessed the disappearance of domestic and hand production in the United States, and the gradual introduction of the factory system, especially for the manufac-

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[18] *Cf.* Commons and Others, *A Documentary History of American Industrial Society*, Vol. II, pp. 347 *et seq.*

ture of textiles. Except in the back country, where cloth continued to be woven in homes as in colonial days, cotton, woolen, and linen fibres were spun and woven into cloth in factories. The factories were equipped with the newly-invented spinning and weaving machines, driven at first by water power, and later by steam. It should not be supposed that the factory system as it exists today, producing innumerable articles for everyday use, came into being at once. The process was retarded by the newness of the country, and the absence of adequate shipping facilities. But in the decades following 1820 and 1830, the foundations for future expansion were laid in the New England States. These determined the lines of development that have been followed down to the present time.

Two features in this development are particularly worthy of attention: viz., the subdivision of trades; and the creation of a distinct class in cities working for wages. First, the manufacturing process made it necessary to split up traditional crafts, for example, shoemaking, into repetitive machine tasks, and to keep each worker at the same operation day after day. As a result, workers came to be graded according to their tasks, and, because of the similarity of their work, to be drawn into competition with one another for wages. Secondly, a rather sharp cleavage appeared in every community between those who worked for wages and salaries, and those who owned the plant and machinery.

A distinct wage-earning class came into existence in American cities at a rather early date, mainly because of two circumstances. In the first place, public land was no longer available, and hence it was impossible for the worker to take up farming. As a result, the immigrants, especially those coming after 1890, tended to remain in cities. Again, the most economical unit of production was the large-scale factory; and the worker who wished to become an independent producer, could not do so because he lacked the necessary capital. Gradually the function of providing capital for factory equipment and raw materials, tended to be separated from the function of labor and supervision, and, as a consequence, two groups, more or less distinct, grew up in the population: those who received the larger part of their income from capital, and those who worked for wages and salaries.

2. As the factory system was extended, there was a corresponding growth in demand for its cheap machine-made goods, not only in the vicinity of factories, but also at distant points. The element of distance demands special consideration, for it involves the question of markets. As factories grew in size, their output grew in proportion, and it became necessary to ship goods to increasingly distant points. This is the mean-

ing of the expression, the widening of the area of markets. The tendency to widen the area of markets had been stimulated very early by the building of canals, roads, coastwise ships, and principally by the steam railroads; and reciprocally, the development of the means of transportation had been stimulated by the widening of the area of markets.

Some economists, Schmoller for example, have advanced the theory that the industrial development of a country can be traced in the development of its markets. In general, this theory is borne out by the development of the United States during the past 125 years. In the earliest colonial period, ''domestic economy'' prevailed. There were no markets at this time, because each family produced goods for its own consumption exclusively. It was both producer and consumer. This period was followed by ''town economy,'' in which producers and consumers within the same town exchanged goods personally, without any intermediary. This stage represents the beginning of markets. Gradually markets were extended over regional trading areas, and finally they covered the whole country and the entire world. In this last stage, known as ''national'' or ''international economy,'' producers are separated from consumers by great distances, and the goods pass through many hands before they reach their ultimate destination. In a general way, American industry has passed through these various stages of market development.[19]

The extension of markets in American industry has modified basically the functions of property in the United States. Very early, the commodity markets, situated in the large cities, tended to become the centres of financial control. Consequently, increasingly greater distances began to separate the persons who owned shops and factories from those who worked in them. The men who owned the early cotton mills in Connecticut or North Carolina, lived in Philadelphia, Boston, or New York, and performed their duties as ''capitalists,'' by seeing that there was sufficient money to equip and operate the mills. Because these men owned these properties, they reserved to themselves the right to determine the policies governing the wages and hours of labor of their employees. This control of industrial policies by the owners of capital, has continued down to the present time, and with the beginning of the trust movement in 1890, it has become increasingly more centralized.[20]

The centralization of control in industry is evidenced in the reduction in the number of important money markets, and the elimination of independent producers in the various industries. Today there is a single dominating centre of financial control, namely, New York City; and a single trust, with subsidiaries, practically controls each major industry, such as, steel, oil, anthracite coal, meat packing, tobacco, and farm implements. The financial management of these massive units of production has required organizing ability of the first order, and the best executive, as well as legal, talent has been drawn to the task. In consequence, the American financial-industrial system, like the machine system on which it is built, moves with the precision of a machine. Two important facts, however, must not be overlooked. First, tremendous power, at times overshadowing that of government itself, is exercised by the heads of financial corporations. Secondly, this power can be abused, and, in some instances, is abused, chiefly because those who work as wage-earners and salaried superintendents have no means of protesting in an orderly and effective manner. More will be said in this connection in the final section dealing with concentration and control.

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[19] Commons and Associates, *History of Labor in the United States*, Vol. I, p. 26.

[20] U. S. Department of Commerce, *The Integration of Industrial Operation*, Census Monograph III, Chapter VIII.

3. The widening of the area of markets has contributed to the centralization of ownership by creating a new bargaining relationship between employer and employee, in which the latter is at a distinct disadvantage. This disadvantage arises mainly from the fact that the typical employer is a corporation. Corporations produce approximately $900 of every $1,000 worth of manufactured goods in the United States. It is necessary to remember that under a system of corporate ownership of shops, railroads, and mines, every shareholder is, in a sense, an employer. Moreover, every shareholder in a corporation is, by virtue of his holdings, linked with every other shareholder. Hence the individual wage-earner in bargaining with a corporation, is, in reality, bargaining with hundreds, and, in some instances, with hundreds of thousands of organized employers. This new relationship of worker and employer has been an important factor in placing considerably more than half the wealth of the country in the hands of the non-wage-earning classes.

The effects which unequal bargaining power in the wage contract have had on wealth distribution, can be best understood by contrasting the present organization of industry with the ''small shop'' system of the middle of the last century. Under the ''small shop'' system, the worker could usually demand a fair contract, because the employer needed workers just as much as workers needed jobs. The workers of this period had other opportunities of gaining a livelihood. Such opportunities included either the taking up of a homestead claim, or of opening up a small shop. At present, however, such opportunities to escape the necessity of an inequitable wage contract, do not exist. Cheap farm land is no longer to be had, and the small shop, which an individual worker might establish, cannot market its products in competition with the powerful corporation. Consequently, a very large percentage of wage-earners are forced to accept a wage less than sufficient for family health and decency. Others submit to "piece work" and "bonus" systems, which yield them higher wages, but, not infrequently, also cause ill-health and premature old age.

The labor union early came into existence to protect the rights of the worker and his family. The purpose of the labor union is to match the organized strength of the employer with the organized strength of the workers. But the labor movement has made comparatively little progress among wage-earners in general, and practically no progress among the least skilled and lowest paid. The unorganized condition of low-wage groups has been due mainly to the opposition of large corporations. There are practically no workers' organizations in the large corporations producing such commodities as steel, automobiles, baked goods, and tobacco.[21] Moreover, the prevailing attitude of American legislatures and courts toward wage-earners, has been that of *laissez-faire,* or freedom of contract. Incidentally, the doctrine of *laissez-faire* is not applicable to modern industrial conditions, as it assumes a bargaining relationship between worker and employer that disappeared with the "small shop" system of production. But because the traditions of *laissez-faire* persist, the Federal Government and the individual States have been extremely reluctant to pass laws protecting wage-earners. The combined result of these two factors, viz., weakness of labor organization and governmental *laissez-faire,* has been the creation of large masses of low-income workers, and a corresponding accumulation of wealth by the investing classes of the country.[22]

4. Another important factor that has contributed to the centralization of wealth during the past century, is the new relation that has grown up between agricultural workers and urban investors. Up to the nineteenth century the great bulk of the population in the United States and in foreign countries was agricultural. But since the Industrial Revolution, there has been a rapid redistribution of the population, with a marked concentration in cities. According to the Census of 1920, the purely farm population of the United States is only 31,614,269, or three-tenths of

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[21] National Bureau of Economic Research, *Growth of American Trade Unions, 1880–1923,* pp. 109 *et seq.*

[22] For discussion of these factors, see Watkins, *An Introduction to the Study of Labor Problems,* pp. 15 *et seq.*

the total population; and the purely urban population is 54,048,974, or five-tenths of the total.[23] Moreover, with each Census the proportion of the rural to the total population has shown a decrease. Nevertheless, the farming population still forms a very considerable market for the manufactured goods of the city. The city, in turn, is the natural market for farm goods. In the exchange of commodities between the country and the city justice requires that neither side enjoy a notable bargaining advantage over the other. It is evident that a bargaining advantage in favor of one necessarily results in a loss to the other. Since the rise of manufacturing in the United States, certain unmistakable advantages have accrued to the sellers of urban products over the farming population. These are treated at length in Chapter XVI. They will be indicated briefly here.

In disposing of his grain, cotton, meat, and dairy products, the farmer deals with large buyers, who are usually organized, and, within limits, capable of controlling the prices they pay. Associations are common among grain elevator corporations, meat packing companies, milk distributors, and cotton jobbers, whereas farmers are usually not organized into selling companies. As a consequence, competition is practically free and unrestricted among farmers, but more or less closely controlled among the buyers of their goods. The farmer is therefore forced to accept a price lower than that which he might obtain, were competition free on both sides. In addition, there is the buying side of the picture. The farmer is at a bargaining disadvantage also in buying the goods of the city. The manufactured products that farmers buy, for example, clothing, shoes, and farm machinery, come from concerns that have some power, at least, to maintain artificial price levels. One of the chief reasons for these artificial price levels, is the protective tariff. The protective tariff excludes foreign goods from the American market, and enables the American manufacturer to exact a price from the home consumer, the farmer included, higher than he could command, were he subject to the competition of foreign goods. The farmer, on the other hand, is not, and, as a rule, cannot be protected by a tariff. The volume of major farm products raised each year in the United States is more than sufficient for home consumption. A certain percentage must go out of the country to find a market. No very considerable quantity of foreign farm commodities, therefore, comes into the United States, and a tariff is not necessary to keep it out. Thus the American farmer must sell his surplus in a world market, which is open, and buy his manufactured goods in a home market, which is closed. It is evident, therefore, that the American farmer is at a two-fold disadvantage in dealing with urban interests: namely, in selling, and in buying.

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[23] U. S. Department of Commerce, *Census Monograph VI*, p. 186.

These bargaining disadvantages operating over a period of years, have combined to draw some of the rightful share of the wealth of the farming population into the same hands that control the ownership of the greater part of industrial property. In some sections of the country, notably in the Southern and Middle Western States, the result has been a complete impoverishment of entire rural communities.[24] Rural poverty does not strike the imagination in the same forcible way as does massed poverty in the city. But it is none the less real. The earnings on farm investments are very much lower than those on investments in urban enterprises, and the wages of farm laborers are considerably lower than those of workers in city industries.[25] The lack of proper income on the farm shows itself in lowered standards of living, tenancy, long hours of work, child labor, poor schools, lack of home conveniences, and inadequate health facilities. Thus the machine system, and the financial system with which it is linked, leave their impress on a section of the population only indirectly related to industry.

C. Summary of Preceding Factors.—The workings of the above four factors are well summarized by the Conference on Christian Politics, Economics and Citizenship:

"In simpler industry a worker owned his own capital in the shape of tools. He also produced his wares for the most part to order, and there was no long interval between the making and disposal. To a considerable extent he was the owner of the capital on which he worked, so that the problems of division did not arise. When the division between the worker and the capitalist began, it was in connection with the supply of material for a wider trade, and then questions concerning the pay of the worker and the profit of the trader began to be of moment. The full force of this division was felt when power-driven machinery came into use, so that it was impossible for the worker to supply either the implements or the material of his trade. The division of the result of industry being a matter of bargaining, any disadvantage on the worker's part would mean that he would have to take a smaller share, and so be unable to save from his wage as much as could be saved from the return to capital."[26]

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[24] Sims, *Elements of Rural Sociology*, p. 353.

[25] National Bureau of Economic Research, *Income in the Various States*, p. 62.

[26] Proceedings, Birmingham, England, Vol. IX, p. 144.

IV. THE PRESENT DISTRIBUTION OF WEALTH

The next question to be considered is the actual distribution of wealth among the various classes in the United States. Throughout this inquiry it will be necessary to bear in mind that the term wealth has two distinct meanings: first, a reserve supply of goods; secondly, a flow of goods, or income.[27] Some persons possess both kinds of wealth. For example, a man who owns an apartment house valued at $100,000, and has a fixed salary of $10,000 a year, has wealth in both meanings of the term. He has reserve wealth incorporated in the apartment house, and income wealth in the form of his salary. Most persons, however, have only one of these forms of wealth. Those living from day to day on their wages have no wealth except their daily wage; others, for example, retired elderly persons, have no wealth except their accumulated savings or investments.

The distinction between reserve and income wealth applies also to entire nations. A nation's reserve wealth is entirely different from its income wealth, and the distribution of the one throughout the population is not the same as the distribution of the other. The reserve wealth of a nation is called its national wealth; its income wealth is called its national income, or national dividend. The period of time for which the national income, or national dividend, is reckoned, is always one year.

The national wealth of the leading countries of the world in various years is shown in dollars in the following table: [28]

	In millions of dollars			
	1922	*1912*	*1890*	*1870*
United States	353,000	186,299	65,037	30,069
United Kingdom	88,840	79,297	53,352	40,000
France	67,710	57,075	43,799	33,092
Germany	35,700	77,783	49,500	38,000
Italy	25,986	23,030	9,733	7,300
Spain	29,319	no data	11,193	10,512

A. Use and Distribution of the National Wealth.—The national wealth of the United States in 1922, is estimated at 353 billions of dollars. Of this amount, 65 per cent is real estate, and the remainder is tangible property or movable goods. The national wealth may also be divided according to the uses to which it is put. Thus about 25 per cent is composed of town and city dwellings, furniture, and personal effects;

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[27] Ely, *op. cit.*, Vol. I, p. 20.

[28] National City Bank, News Bulletin, December, 1924. The figure for the United States, 1922, is the estimate of the Federal Trade Commission.

18 per cent is agricultural wealth; 18 per cent is used for wholesale and retail trade and commerce; 14 per cent is used for manufacturing and mining; 13 per cent is held by railroads and public utilities; and 12 per cent is held by the Federal, State and local governments.[29] It is to be noted that the national wealth of the United States is not a fixed sum, but that it is increasing rapidly—more rapidly than the population. This means that a larger volume of goods is produced each year than is consumed. According to Malcolm C. Rorty, the annual production of useful goods in the United States increases between 3 and 4 per cent per annum, while the population increases only 2 per cent.[30]

Taking the term *national wealth* in the sense of the sum total of reserve property in the United States, the question may be asked: How is the national wealth distributed among the 120 million persons in the country? The most recent answer to this question is that of the Federal Trade Commission on May 25, 1926. On the basis of a study made in 1922 and 1923, of 43,000 estates recorded in 24 counties, in 13 different States, the Commission concluded that about 1 per cent of the people in the United States own 59 per cent of the national wealth, and that about 13 per cent of the people own more than 90 per cent of the national wealth. These estimates agree substantially with the results of the earlier studies of wealth distribution in Massachusetts and Wisconsin made by Professor King.[31] The studies of Mr. Walter R. Ingalls, however, show the distribution of the national wealth to be considerably less inequitable. According to Mr. Ingalls, somewhat less than 2 per cent of the people own not less than 25 per cent, and not more than 46 per cent, of the tangible wealth of the country.[32] But even this very conservative estimate, makes it evident that there exists in the United States an extremely unequal distribution of the national wealth. A similar unequal distribution exists in Great Britain. According to Sir Leo Chiozza Money, a group of about 120,000 persons, who with their families form about one-seventieth part of the population, own about two-thirds of the accumulated wealth of the United Kingdom. The same authority finds that 2,500 persons own more than one-half of all the land in the United Kingdom.[33]

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[29] Federal Trade Commission, *National Wealth and Income*, Report, Senate Document, No. 126, p. 2.

[30] *Some Problems in Current Economics*, p. 68.

[31] *Wealth and Income of the People of the United States*, Chap. IV.

[32] *The Iron Age*, October 4, 1923; see also Ingalls, *Wealth and Income of the American People*, Chap. VIII.

[33] For a discussion of the diffusion of ownership in Great Britain, see the Report of the Liberal Industrial Inquiry, *Britain's Industrial Future*, pp. 242–261; for data on the distribution of wealth in other countries, see Douglas, Hitchcock, and Atkins, *The Worker in Modern Economic Society*, p. 291.

B. Sources and Distribution of the National Income.—The national income is the sum total of goods and services produced in a country during the period of one year. The volume of the national income expressed in money, fluctuates in the United States from year to year due to variations in business conditions, the changing value of the dollar, and variations in the volume of farm crops. The general movement, however, has been upward. The national income of the United States increased from 27 to nearly 90 billions of dollars from 1909 to 1926. The increase in actual wealth, as distinguished from the amount of wealth expressed in dollars, was nearly 90 per cent during this period.[34]

At present (1930) the national income of the United States is estimated at 90 billion dollars. It is of interest to know what groups produce this volume of income, and what their respective contributions are. The latest data on the question are for the year 1923. In 1923, the national income amounted to approximately 76 billion dollars. The manufacturing industries contributed 34 per cent; agriculture, 13.5 per cent; mercantile business, 12.5 per cent; personal service businesses,—hotels, barber shops, shoe-repair shops, and a host of others, 9 per cent; the professions,—law, medicine, engineering, etc., 7.5 per cent; steam railroads, 6.7 per cent; mining and quarrying, 4.9 per cent; the construction industry, 2.5 per cent; commercial banking, 2 per cent; while smaller contributions, of less than one billion dollars each, completed the total.[35]

With respect to the problem of the distribution of the national income, two questions arise: first, how is the national income shared among the population as income-receivers in general; and secondly, how is it shared according to wage and salary receivers on the one hand and owners of property on the other? The National Bureau of Economic Research furnishes information on the first question up to the year 1919. From 1913 to 1916, about one-third of the national income went to the most prosperous one-twentieth of all income receivers. From 1916 to 1919, the share going to the same group was somewhat less, and by 1919, it was approximately one-fourth of the total. The full significance of these findings will be better understood by making a distinction between income and "surplus" income. If the amount of income over and above $2,000 per year is regarded as "surplus" income, and the lumped surplus of all incomes is divided by the number of persons receiving over $2,000 per year, it will be found that a very grave inequality of income-distribution exists. The result will show that 2.2 per cent of all income-receivers in the United States receive about 71 per cent of the "surplus" income, and less than one per cent receive about one-half of the "surplus" income.[36] According to the National Bureau of Economic Research, during the period of 1921–29, the highest income recipients tended to receive a larger share of the national income and the lowest income groups tended to receive a smaller share.[37] A similar inequality in income-distribution is found to exist in England. In 1919, half of the national income passed into the hands of about one-tenth of the population. This distribution is more or less fixed from year to year, as the estimates of 1905 are found to be practically the same as those of 1919.[38]

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[34] National Bureau of Economic Research, *News Bulletin*, February 21, 1927.

[35] Federal Trade Commission Report, 69th Congress, 1st Session, p. 12.

The second question proposed above, considers the division of the national income between persons receiving wages and salaries on the one side, and persons receiving income for management and investment on the other. In 1919, the total payroll of the United States was about 35 billion dollars. This was nearly 54 per cent of the national income for that year.[39] Of this 54 per cent, 42 per cent was paid for wages and 12 per cent for salaries.[40] The remaining 46 per cent was paid out as profits, interest, rent, and miscellaneous. The share received as wages and salaries rose slightly in 1920 and 1921, and in 1923 dropped to practically the level of 1919.[41] The percentage of the national income received by the wage-earning and salaried classes has not materially changed over a period of thirty years.

V. THE CONCENTRATION AND CONTROL OF WEALTH

In the preceding section it was seen that there are two kinds of wealth, reserve wealth and income wealth; and that there are two kinds of distribution, corresponding to these two kinds of wealth. It is to be observed that the distribution of the national wealth is much more unequal than that of the national income, that is, the percentage of the population owning the major portion of the national wealth is very much smaller than the percentage receiving the major portion of the national income. Nevertheless, the distribution of the national income is very unequal, as is shown by the disproportionately large number of persons who are in the low-income group.

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[36] National Bureau of Economic Research, *Income in the United States*, p. 115; for estimates indicating a somewhat less inequitable distribution of wealth see Ingalls, *Wealth and Income of the American People*, rev. ed., Chap. IX.

[37] *News Bulletin* No. 34, November 8, 1929.

[38] Estimates of Sir Josiah C. Stamp: quoted in Conference on Christian Politics, Economics, and Citizenship, Birmingham, England, Report, 1924, p. 85.

[39] National Bureau of Economic Research, *Income in the Various States*, 1919–20–21, p. 49.

[40] Soule, in *American Economic Review, Supplement*, March, 1923, p. 136.

[41] Federal Trade Commission, *ibid.*, p. 12.

The reason that a relatively small share of the national income goes to persons working for wages and salaries, is due, in the main, to the fact that the great bulk of the national wealth is held by a relatively small number of persons. Because of their extensive holdings, this small group is in a position to regulate the income of millions of other persons, and for all practical purposes, their very lives. This aspect of centralized ownership calls for a somewhat more extended treatment. The remainder of this chapter will, therefore, be devoted to: (A) An exposition of the actual ownership of wealth and the methods of control now obtaining in American industry. (B) An examination of the system from the standpoint of its advantages and disadvantages to society.

A. The Actual Ownership and Control of Wealth.—The corporation is the prevailing form of production in American industry. Corporate operation and ownership have been developing rapidly since the beginning of this century. In 1915, the Federal Industrial Relations Commission reported: "With few exceptions each of the great basic industries is dominated by a single large corporation, and where this is not true the control of the industry through stock ownership in supposedly independent corporations and through credit is almost, if not quite, as potent."[42] The combined capitalization of corporations in the United States, exclusive of patents, trade-marks and outside investments, is 102 billion dollars. The larger individual corporations, named in the order of their financial strength, include the United States Steel Corporation, American Telephone and Telegraph Company, Southern Pacific Company, Pennsylvania Railroad Company, New York Central Railroad Company, Standard Oil Company of New Jersey, Canadian Pacific Railway Company, and the Union Pacific Railroad Company, each with a capital investment of more than one billion dollars.[43]

The ownership of natural resources and of urban real estate is also highly concentrated. About one-third of all the developed water power in the country is controlled by six companies; over half of the iron-ore reserves by two companies; over three-fourths of all the anthracite coal reserves by eight companies; and nearly half of the copper reserves by four companies.[44] More than one-half of the real estate in New York

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[42] Vol. I, p. 80.

[43] Sinclair, *The New York World*, August 31, 1928; for outline histories of representative trusts in the United States, see Jenks and Clark, *The Trust Problem*, pp. 344–419.

[44] Federal Trade Commission, *ibid.*, p. 4.

City is owned by less than one per cent of all the real-estate owners in the city. In 1916, one-third of the assessed land values in Cleveland was held by 127 families.[45]

It should not be assumed that, because wealth is concentrated in the various industrial and financial corporations, each acts independently of the other. Through an intricate network of credit, practically all the larger corporations are associated or "interlocked." In this "interlocking," the banks play a leading part because they control credit.[46] Moreover, the directors of banks are often directors of manufacturing and railroad corporations, and vice versa. Finally, many large corporations invest their surplus earnings in other enterprises, and through such investments secure representation on their boards of directors. The classical examples of the interlocking of separate industries are the early affiliation of the Standard Oil Company with the railroads, and the present ownership of the anthracite coal industry by railroad interests.[47] The Federal Trade Commission reports that the average "outside investments" of the four largest meat-packing companies is over one-third of their total holdings.[48] Through its ownership of securities, six financial groups and affiliated interests had in 1915 a capitalization of nearly 20 billion dollars, and employed over two and one-half million wage-earners. A single banking group, the Morgan-First National Bank, alone controlled corporations employing over three-quarters of a million wage-earners.[49] Since 1915, the extent of the control of industry and trade by banking firms has greatly increased. This does not mean, of course, that the control has become more direct and detailed.[50] Nevertheless, although indirect, it is very effective. The management of a typical corporation is vested in a board of directors, who are frequently members of boards of both financial, and manufacturing and trade corporations. Moreover, the board of a major industrial corporation, and hence of the industry itself, is frequently controlled by one or two dominating personalities. The United States Steel Corporation may be taken as an example. The owners of this corporation number about 180,000. In 1920, the President, the late Elbert Gary, reported that he had presided at every meeting of the stockholders since 1901, and had voted "the major part of all the outstanding capital stock."[51]

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[45] Manly, *People's Legislative Service Bulletin*, Nov., 1926.

[46] 62nd Congress, 2d Session, House of Representatives, Report No. 1127, pp. 209–211; *Magazine of Wall Street*, May 21, 1927.

[47] Jones, *The Trust Problem in the United States*, pp. 44 *et seq.*

[48] *Op. cit.*, p. 6.

[49] Federal Industrial Relations Commission, 1915, Vol. I, p. 80.

[50] The President's Conference Committee, *Recent Economic Changes in the United States*, 1929, Vol. II, pp. 681–684.

Recent data on the distribution of stock ownership may seem to make it necessary to modify what has just been said regarding the concentration of corporate ownership.[52] From 1900 to 1923, the total number of stockholders in all corporations had almost doubled, reaching an aggregate of over 14 millions of persons in 1923.[53] Superficial observers regard this multiplication of stock owners as proof that property is gradually being diffused among the masses of the people. On the surface it would appear that with the increase in the number of persons holding dividend-yielding stocks, ownership necessarily becomes more democratized and incomes more nearly equal. A careful examination of the facts will show, however, that this conclusion is not warranted and that, in reality, the very opposite is the case.

Democratizing ownership means making it possible for all the people, and especially the propertyless, to own wealth. The pivot word in this definition is *all*. If the number of persons holding income-producing securities tends to increase only in the group with an annual income of $3,000 and above, it cannot be said that the democratization of property has begun. The actual tendency is disclosed by the Statistics of Income issued by the Bureau of Internal Revenue.[54] From 1921 to 1924, inclusive, the share of dividends for the income groups below $3,000, showed a marked decrease, and the share for those above this amount, a corresponding increase. The same tendency is indicated by the reduction in the number of stockholders among wage-earners in large corporations. The experience of the United States Steel Corporation may be taken as characteristic. In 1903, the employees of this corporation constituted 65 per cent of all the stockholders (not to be understood as holding 65 per cent of the total market value of the capital stock). By 1926, the percentage dropped to 30. From 1921 to 1926, the proportion of the employees holding stock likewise dropped—from 42 to 19 per cent. The chief causes of this falling off in stock ownership in the corporation are unemployment and sickness, which oblige employees to default in the payments on their shares, or to sell those already purchased.[55] From available data, therefore, it is evident that property is not being democratized, because the number of wage-earners who are becoming stockholders in corporations is not increasing.

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[51] Address of President Gary, at annual meeting of stockholders, April 19, 1920.

[52] See Foerster and Dietel, *Employee Stock Ownership in the United States*, Princeton University.

[53] Ripley, *Proceedings of the Academy of Political Science*, Vol. XI, No. 4, p. 146.

[54] *Statistics of Income from the Returns of Net Income for 1923, 1925.*

[55] Corey, in the *New Republic*, May 5, 1926.

Another phase of the question of stock ownership remains for consideration. It was stated above that the number of stockholders, owning revenue-producing stock, has almost doubled since the beginning of the century. Paradoxical as it may appear, this growth in the number of stockholders really brings about greater, rather than less, centralization of control.[56] The cause of the greater centralization of control, is the new system of financing corporations which has come into vogue within recent years. Briefly, the plan calls for the issuance of large blocks of securities (Class A stock), which are without voting power, and the retention by the financial promoters of a relatively small number of shares (Class B stock), which alone carry the power to vote. For example, in the refinancing of the Dodge Motors Company in 1925, 1,500,000 shares of non-voting Class A common stock was offered for sale to the public, while the promoting firm retained 500,000 shares of voting Class B (non-par) common shares, and with them the exclusive direction of the business.[57] This system of stock distribution makes it possible to exclude the general stockholders from any voice in the direction of the firm. But, what is of paramount importance, the more non-voting shares that can be scattered among individual shareholders, the smaller the number of voting shares that need be held by the voting promoters in order to assure them complete control over the corporation. As a result, while the actual number of owners may tend to increase, control clearly becomes more centralized. It is evident, therefore, that the tendency of property in the United States is toward greater centralization of power in the hands of a small group of owners.

B. The Concentration of Wealth and Public Welfare.—After a review of the present methods of finance and control, it is pertinent to ask whether these methods are conducive to public welfare. The best approach to this question is to compare the social gains with the social losses. Foremost among the advantages of corporate ownership is the oneness of action and purpose in industry, secured through the unified control of management. In the absence of coördinated direction, confusion and waste in production and marketing would follow. Moreover, it is to be remembered that the economics of mass production and distribution can be secured only through large-scale operations, which are impossible without huge sums of capital. Machine industry requires vast aggregations of wealth to purchase plant and raw materials, pay wages, and merchandise goods in large quantities. The joint ownership of stock is especially adapted to these needs, whereas individual ownership is entirely inadequate. In fact, it would be impossible to carry on production in large units without large accumulations of capital. Finally, —and this is the outstanding merit of the modern industrial system,—it more than adequately supplies the rapidly increasing population with food, clothing, housing, and the conveniences of life.

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[56] Ripley, *Main Street and Wall Street*, p. 95.

[57] Ripley, *op. cit.*, p. 86.

Against these clear benefits, certain glaring evils must be placed in the balance. Foremost among them, in fact, the standing challenge to the present capitalistic system, is the wretched poverty of the masses. Poverty is a term difficult to define. On its purely economic side it means the lack of sufficient income. A family is in poverty when it is unable to secure the goods necessary for normal health, frugal comfort, and moral living. According to this understanding of the term, between 30 and 40 per cent of the American population are living in poverty. This estimate includes the ten per cent who are obliged to accept charitable relief. It does not, however, include those living in poverty in rural districts. The poverty of the country is, nevertheless, no less real than that of the city. Although no quantitative data are available, deserted farms in the Western and Southern States, lack of schools, improper housing, and inadequate medical and hospital facilities are sufficient proof of the poverty existing in many rural communities.[58] Poverty, therefore, is the first great indictment against modern capitalism.

One of the important causes of widespread poverty in modern industrial society is the irresponsible and absolutistic exercise of power by those who control the financial resources of the nation. Under modern capitalism, power and responsibility are divorced. The men who have effective control of the nation's finances, are practically free from accountability to any one. Under the American form of government, an unsatisfactory president, congress, or state legislature, can be voted out of office by the people. It is the theory of American government that public officials hold office as a trust, to do the people's will. National and local policies are accordingly subject to the check of the voters. But the men in control of the country's finances are practically free from accountability to any one. In a sense, they form a state within a state.[59] This situation creates a new problem, affecting not only the poor, but the vast numbers in American society known as the middle classes. The existing disabilities of the middle classes are not those of a material, but of a personal and political character. According to Dr. John A. Ryan, a new form of society is being developed, which unless checked, will probably be a repetition of the feudalism of the Middle Ages. In an address before the Cleveland Forum, in February, 1926, he said:

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[58] Sanderson, Editor, *Farm Income and Farm Life*, p. 149.

> As we survey present conditions and the unmistakable trend of political and economic forces, we find a good deal of reason to think that history is about to repeat itself. After more than three centuries, there approaches a return to feudalism. In the Middle Ages, feudalism was based upon military force and the ownership of land. The new feudalism is political and industrial. Not improbably it will be more or less benevolent. The lords of industry will realize, at least for a considerable number of years, that their position and profits will be more secure if they refrain from the cruder and coarser forms of injustice, and permit the dependent classes, both urban and rural, to obtain a moderate share of the products of industry. The masses will probably enjoy a slightly higher degree of economic welfare than has ever been within their reach before. But they will enjoy it at the expense of genuine freedom. They will have surrendered the right, which was once universal in America, to determine their own economic lives. They will not accept this loss of freedom with complete complacency, but their protests will be feeble and ineffective. The mind of the masses will have become a slave mind. Possibly this is the kind of society that we want in this country, but it is not the kind that made and kept America free.[60]

The inherent dangers of concentrated control were recognized by the United States Government in 1890, when it passed the Sherman Anti-Trust Act. This act was followed by the Wilson Tariff Act in 1894, and the Clayton Act and the Federal Trade Commission Act in 1914.[61] All these laws aimed to regulate the activities of large corporations in the interest of the public welfare. In 1914, the House Committee of Congress declared: "The concentration of wealth, money, and property in the United States under the control and in the hands of a few individuals or corporations has grown to such an enormous extent that unless checked it will ultimately threaten the perpetuity of our institutions. The idea that there are only a few men in any of our great corporations and industries who are capable of handling the affairs of the same is contrary to the spirit of our institutions."[62] To the regulatory laws of the Federal Government, may be added those of the various States, especially those authorizing commissions to fix the rates of telephone, gas, light, street railway, and other public utility corporations.[63]

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[59] Brandeis, Testimony, Industrial Relations Commission, 64th Congress, 1st Session, Vol. 8, p. 7659.

[60] *La Follette's Magazine*, March, 1926, p. 41.

[61] For a summary of these laws see Hamilton, *Current Economic Problems*, pp. 468–469.

[62] House Report, No. 627, 63rd Congress, 2nd Session, p. 19.

These attempts at regulation illustrate the two items that have been emphasized in the latter half of this chapter: first, that vast aggregations of capital are necessary for large-scale production; and secondly, that the control of such capital must be restricted or limited in the public interest. In many discussions, only the first of these items is referred to, and the second is obscured or ignored completely. For instance, a writer in the News Letter of the National City Bank of New York, November, 1924, argues against the "publicity" clause in the income tax law, and against levying high taxes on large corporations. He says that the $19,000,000 paid in Federal taxes by the Ford Motor Company and the members of the Ford family, could have been devoted more profitably to the expansion of the Ford plants, with an extension of the Ford plans, and an increase of the payrolls of the workers. Referring in a similar way to the taxes paid by the U. S. Steel Corporation, the American Telephone and Telegraph Company, and the Pennsylvania Railroad the writer concludes: "The surplus incomes are devoted to public purposes as truly as though they were owned by the State."[64] These statements obscure the central fact emphasized above. It is true that when surplus wealth is invested in large concerns, the public is benefited. But it is not true that "surplus incomes are devoted to public purposes as truly as though they were owned by the State." Under present conditions, ownership carries with it a power which is frequently irresponsible. In some of the corporations this power has exceeded the authority of the government itself. Herein lies the grave danger that modern capitalism presents to contemporary society. Because of the irresponsible and arbitrary power exercised by concentrated capital, large sections of the weaker economic groups are held in a condition of dependency, and the great mass of the people suffer a serious impairment of their personal and political freedom.

C. Summary.—The foregoing discussion is not to be interpreted in the sense that modern capitalism is bad, root and branch. The central objective of industrialism is fundamentally sound. Production on a large scale is necessary to supply the ever-increasing population with food, clothing, shelter, and the reasonable comforts of life. Likewise, quantity production can be achieved only by bringing together large aggregations of capital to purchase machinery and raw materials; to pay wages, salaries, and risks; and to cover the cost of waiting between the time of manufacture and the time of sale. But these results can be obtained without the evils accompanying the system, especially those of massed poverty, and the curtailment of personal liberty. These evils can be corrected by a wider diffusion of ownership in the tools of production, and especially by democratizing the management and direction of industry through trade unions and shop committees.

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[63] See American Academy of Political and Social Science, *Annals*, Vol. CXLVII.

[64] See also Ingalls, *Wealth and Income of the American People*, rev. ed., p. 196.

The almost absolute power of control exercised by the few could be modified also through additional legislative restraints, such as have been inaugurated by the Clayton Act and the Federal Trade Commission Act. Such legislative measures can be made effective through accurate and complete publicity regarding the financial activities of corporations. If capitalization of corporations, their earnings, affiliations with outside companies, and number of stockholders were published periodically, the general public would be in a position to assess their operations at their true value, and to assist the courts in enforcing the regulatory statutes of legislatures.[65] Obviously, such regulations should not be carried to the point where they would either stifle leadership or deprive it of fair compensation. But there is a wide margin of difference between excessive regulation and the existing policy of minimum regulation. Somewhere between these extremes, governmental power should be exercised in behalf of the public interest. Publicity and governmental control will doubtless reduce the evils of modern industrial property, and place the benefits at the disposal of greater numbers than now enjoy them.

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[65] Ripley, *Atlantic Monthly,* September, 1926.

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QUESTIONS FOR REVIEW

1. Define property and the concept of ownership.
2. Explain the right of ownership and the limitations which may be placed upon the uses of property.
3. Distinguish between public and private ownership of property.
4. What is known concerning the property practices of early historic peoples?
5. Do primitive tribes own property individually or collectively?
6. What system of land ownership is found among living uncivilized peoples?
7. Define chattels and personal belongings. Does the ownership thereof differ from the ownership of land?
8. Discuss the main differences between the ownership of property in primitive times and in modern times.
9. What is meant by the term "capitalism"?
10. Explain the origin of modern capitalism.
11. What causes have tended to promote capitalistic ownership?
12. Show why the labor union arose.

13. Are labor unions monopolies?
14. What is meant by the phrase "distribution of wealth"?
15. What is meant by "national wealth"? "National income"?
16. What percentage of the national wealth does each class of the people hold?
17. What percentage of the national income does each class secure?
18. If the national wealth and the national income were distributed equally among all inhabitants, what would be your share of each?
19. What is the distinction between wages and salaries?
20. Define the phrase "concentration of wealth."
21. Compare feudalism with modern capitalism.
22. Point out the ways in which capitalistic control is interlocked.
23. What are the facts concerning the distribution of stock ownership?
24. What are the meanings of the terms: stocks, bonds; class A stock, class B stock; common stock, preferred stock; "watered" stock?
25. Explain the meaning of democratization of ownership.
26. Explain how increased distribution of stock ownership has resulted in greater centralization of control.
27. What are the social advantages and disadvantages of concentration of wealth?
28. What public measures have been taken to prevent monopoly? What have been the results?
29. Why has the public clamor of "trust busting" become less marked during the past fifteen years?
30. What remedies may be suggested for the evils of monopoly?

CHAPTER XIV

THE SOCIAL FOUNDATIONS OF PRIVATE OWNERSHIP

I. INADEQUATE THEORIES OF THE ORIGIN OF PRIVATE OWNERSHIP

A. The Contract Theory—B. The Legal Theory—C. The *de Facto* Theory—D. The Labor Theory

II. INADEQUATE POLITICAL THEORIES OF PRIVATE OWNERSHIP

A. Collectivist Theories—B. Individualist Theories

III. JUSTIFICATION OF PRIVATE OWNERSHIP

A. Individual Welfare—B. Social Welfare

IV. THE IDEAL RELATION OF GOVERNMENT TO PROPERTY

A. What the State May Do—B. What the State May Not Do

In the preceding chapter it was seen that the title of ownership invests a person with a moral power over his property. This power, although not absolute, permits him to make such use of his possessions as he chooses. The owner of property may be either an individual, a group, or a government. Hence the distinction is made between individual, group, and public ownership.

Individual ownership is illustrated in the case of a person who possesses real estate, bonds, wardrobe, books, jewelry, or automobiles, and who does not share the title to these goods with others. Inasmuch as the family is a unit, the joint ownership of husband and wife may also be considered as individual ownership. Group ownership is illustrated in the consolidated holdings of companies and corporations. Incidentally, a large proportion of all the wealth of the United States, (102 out of 353 billions of dollars) is owned in this way.[1] Finally, public ownership is illustrated in the goods owned by the community or nation. A considerable amount of the total wealth of the nation is owned by various governmental units; the Federal, State and Municipal governments holding about twelve per cent of the entire 353 billions of the national wealth.

The three types of ownership, individual, group, and public, possess the essential qualities of property. These qualities are exclusiveness, permanence, and transferability. Exclusiveness invests an owner with the power to prevent others from consuming or using his goods. For example, the owner of an automobile has the right to exclude others from using or operating it. The same quality is inherent in group ownership. To illustrate, the owners of a shoe-factory have the unquestioned right to prevent others from using their machinery or trespassing on their premises. The same holds true of goods owned by the public. Thus one government excludes other governments from the use of its national property.

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[1] Federal Trade Commission, Report, 69th Congress, 1st Session, pp. 1, 5.

The second essential quality of ownership is permanence. This means that an owner retains power over his goods until he voluntarily disposes of them. The element of permanence applies to goods owned either by individuals, groups, or nations. This element is denied by writers of the Utopian School, who propose to abolish existing inequalities of wealth by enforcing a periodic distribution of goods, for example, every five, ten, or twenty years. Needless to say, a plan of this kind would be both impracticable and unjust. In addition, it would be socially wasteful, and thereby decrease the volume of consumptible goods. This becomes evident when one recalls that temporary property holders, or tenants, do not take the same care of property as do actual owners. A system of periodic distribution would virtually make all property owners tenants, and the result would be a marked deterioration in property values, especially during the years immediately preceding and following the recurrent dates of redistribution.

The third element in ownership is transferability, which empowers an owner to sell, donate, or bequeath his goods to others. This element is present also in the three types of ownership,—individual, group, and public. Thus an individual may sell, bequeath, or give away his house and furniture; a corporation may sell its holdings to another corporation, to the government, or to an individual; or a nation may sell a part of its territory to another nation, a corporation, or an individual.[2]

From the foregoing it is evident that three forms of ownership exist side by side in modern society: individual, group, and public. This threefold distinction supplies the basis of classifying the total wealth of the country (353 billion dollars). The largest single division is owned by individuals and families: it forms from 43 to 50 per cent of the entire national wealth. Four-sevenths of this share is composed of town and city dwellings, furniture, clothing, and personal effects; and threesevenths is composed of agricultural wealth. The second largest division of the national wealth is owned by corporations and partnerships, and forms between 35 and 40 per cent of the total. The third division is owned by the Federal, State, and Municipal governments, about 12 per cent of the total.[3]

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[2] Garriguet, *Manuel de Sociologie*, pp. 165–167.

I. INADEQUATE THEORIES OF THE ORIGIN OF PRIVATE OWNERSHIP

Various theories have been advanced to justify private ownership.[4] A careful examination of these theories, however, will show that they are at most only partially valid, and that they expose the institution to serious criticism. These defective theories may be grouped under four headings: (A) The Contract Theory, (B) The Legal Theory, (C) The *de Facto* Theory, and (D) The Labor Theory.

A. The Contract Theory.—The contract theory holds that the institution of private ownership rests on a contract that was entered into explicitly or implicitly by primitive men at an early period of history. Prior to this time, it is claimed, land and movable goods belonged to no one in particular, but were the common property of all. It was found, however, that this arrangement resulted in feuds and bloodshed, as a result of quarrels over property. Consequently, the tribesmen came together and agreed that in the future each person was to own his own lands and goods privately. Roughly, this is the theory of Grotius, Pufendorf, and others. Incidentally, the theory has very few defenders at the present time.[5]

The chief objection to the contract theory is the fact that it lacks historical foundation. There is no historical evidence to show that a state of communal ownership existed at the dawn of civilization, or that a social contract was entered into at any time in the past. Moreover, even though it could be proved that a social contract was entered into at some time in the past, the theory could not provide a stable foundation for private ownership. If private ownership rests on a contract made in early times, there is nothing to prevent later generations from repudiating or revising this contract. Consequently, private property would be subjected to the caprices or preferences of each succeeding age, and would thereby be deprived of a firm foundation for its continuance.[6]

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[3] Federal Trade Commission, *ibid.*, p. 2.

[4] For an exhaustive treatment of these theories see Ely, *Property and Contract in their Relations to the Distribution of Wealth*, Vol. II, pp. 531 *et seq.*

[5] Ely, *ibid.*, Vol. II, p. 535.

[6] Pesch, *Lehrbuch der Nationalökonomie*, I, 2aufl., p. 192.

B. The Legal Theory.—The legal theory of private ownership holds that the right to own property privately, comes to every owner from the laws and sanctions of his government. Accordingly, private ownership is a concession rather than a right, and the concession comes from the state. This theory was originally propounded by Hobbes in his *Leviathan.* It was also taught by Montesquieu in his *The Spirit of Laws.*[7] Fichte and Wagner likewise defended this doctrine, and they have had a considerable following of modern writers, especially those who hold that all rights are derived from society. All of these theorists start from the premise that the present system of private ownership is an artificial growth, reinforced and protected by the state, and if the state were to be overthrown, the institution of private property would necessarily fall with it.[8]

The legal theory of private ownership, however, is erroneous and untenable, as it cannot provide the institution of property with a sufficiently firm foundation. Private ownership rests on a deeper foundation than any that could be furnished by the state. In a word, it grows out of human nature. It is rooted in the basic needs of men, which remain unchanged from one generation to the next. The state cannot create the right of private ownership, for the state itself is a creature of human necessity. Its relation to private ownership is not that of parent to child, but that of brother to brother. Government and property have a common father, namely, the inherent needs of human beings. These needs dictate the erection of a state, and the maintenance of private ownership. Among these needs are the necessity of self-support, family life, security, peace, and material and intellectual advancement. To satisfy them men set up a government and enforce a system of property rights. It is true that the state protects the rights of property through its laws, courts, and police system, as it also protects the rights to live, to marry, and to be free from unjust attacks on one's person or reputation. But this is quite different from saying that the state creates these rights. It may be admitted freely that a person's natural rights would be worth very little to him, if the authority of the state were to be seriously imperiled by lawlessness, or overthrown by revolution. Nevertheless, it is as illogical to say that the right to own property comes from the state because the state protects it, as it is to say that the right to live comes from the state because the state protects life.

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[7] Vol. I, Chapters XV, XVI, XVII.

[8] Cathrein, *Moralphilosophie*, II, 5 aufl., pp. 295 *et seq.*

Furthermore, those who seek a secure basis for private ownership, place the institution on a very shifting foundation when they regard the state as its original source. If private ownership owes its origin to the state, it is merely a fiction of legislatures, and they can abolish it at will. Accordingly, a majority may vote it out of existence, and later, a majority may vote it back again. To rest on a solid basis, private ownership must be placed on a firmer foundation than that of the constitution or laws of a government. The true basic foundation is the inherent needs of human nature.[9] More will be said of the natural basis of ownership in Section III of this chapter.

C. The *de Facto* Theory.—For want of a better name, the property theory quite generally accepted in contemporary economic society, may be called the *de facto* theory. It holds that the right of private property rests on no other title than the fact that private property is now in the hands of its present owners, and that their claims are not challenged or invalidated by law. In other words, the circumstance that private owners now hold property is sufficient justification for them to keep it, provided, of course, that no other persons can legally compel them to give it up. This is the working theory of modern economic life. It is closely allied to the legal theory, although it contains important elements not included therein. These similarities and differences will appear from the analysis that follows.

The *de facto* theory of private ownership seeks to justify all private property, whether the title for its tenure is (1) inheritance and donation, (2) social increment and chance, or (3) trade and exchange.

1. According to the *de facto* theory all persons who possess property which has been bequeathed to them in wills, or given them as pure donations, are the rightful owners of this property, provided they cannot be dispossessed by law. Conversely, if a bequest or gift is contested, and the courts decide against the actual holders, their title automatically passes over to those in whose favor the courts decide.

2. The *de facto* theory justifies also the title of ownership (in property) acquired through social and fortuitous increase. For example, if a piece of land on the outskirts of a city rises in value from $500 to $5,000, even during the short space of a year, the holder of the land has a just title to the ownership of the difference, or $4,500. It is assumed in this case, of course, that no civil law has been violated in creating the increment. Another example may be taken from the operations of the stock and commodity exchanges. By taking risks in buying and selling

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[9] Pesch, *op cit.*, p. 190.

securities, a speculator may come into the possession of huge "windfalls." To take an extreme case, but not an infrequent one, a man may realize a profit of $100,000 within an hour, by a grain transaction on the Board of Trade. According to the *de facto* theory, this man has a sufficiently valid title to this gain, because the law does not condemn the acquiring of property in this manner.

3. Finally, the *de facto* theory justifies the ownership of *all* gains made in transactions of buying and selling. These gains are morally legitimate, the theory holds, because economic and civil law unite in validating them. The process may be explained as follows. The prices of commodities are determined, in the last analysis, by the interaction of supply and demand. If the available supply of a given product is large, and the demand for it is relatively light, the price is low; and vice versa. For example, during a year when the wheat crop of the country is heavy, a farmer may receive $1.50 per bushel for his wheat. During a year when the crop is light, he may receive $2.00 per bushel. If he raises 2,000 bushels the first year, he will receive $3,000. If he raises 1,000 bushels the second year, he will receive $2,000. He may have worked much harder to raise the 1,000 bushels in the year in which he received $2,000, than he did in the year in which he raised 2,000 bushels and received $3,000. But the degree of his labor does not fix the value of his wheat. The real determinant is the size of the world's wheat crop. The economic forces of supply and demand interact, and their net effect registers the market price of wheat. But this is only one-half of the theory. The state places its seal of approval on the prices determined by the economic factors of supply and demand, and stands ready to enforce these prices as fair. The greater or less amount of property in the hands of property owners is, accordingly, determined by economic forces, sanctioned by the state. This, the theory holds, is adequate moral justification—and none other is required—for the ownership of goods acquired by contracts.

The *de facto* theorist applies the same reasoning to all property acquired through buying and selling. A familiar illustration is that taken from the field of industry. An unskilled laborer who receives $4.00 per day, enters into a contract with an employer and acquires a property right to $4.00 for each day he works. But if he finds that he is unable to support his family on this amount, no court of law will compel the employer to pay him $5.00 or more per day. If the employer fails to pay the worker at all, the most that a court will do is to compel him to pay the unpaid worker at the rate of $4.00 per day. But this rate is not determined arbitrarily by the court; neither, in reality, is it determined by the employer or the worker. Actually, it is set by the number of available workers who can be found to do unskilled work at $4.00 per day. To repeat, the principle of permitting economic forces to operate freely, and of placing the seal of the state on the result, is applied to all transactions of buying and selling. Thus it is apparent that in any given transaction, the seller has more property if he can sell at a high price, and less property if he must sell at a low price; but the price determined by market forces is, according to the *de facto* doctrinaire, the proper one. From the combination of these two forces, therefore, namely, market movements and state approval, private property derives its ultimate justification.

The *de facto* theory of property is open to very serious objections, especially insofar as it claims to provide a stable basis for the institution of private ownership. The theory is merely a description of what is now the accepted practice with reference to private ownership, but it is not an adequate justification for retaining the institution. The essential weakness of the theory is that it assumes that justice is only a form of legalism. The common consciousness of mankind is opposed to this artificial concept of justice. It declares that justice is objective, and as such lays down an inflexible norm of right and wrong. (Cf. Chap. IV.) But it is to be noted that the laws of a country may fail to reflect, and, in some instances, may even contravene the requirements of objective justice. This can be readily understood. Lawmakers and judges are human, and cannot be expected to embody the demands of justice in all their laws and decisions. And yet the proponents of the *de facto* doctrine assume that this is being done. Their doctrine virtually invests the state with a quasi-infallibility in administering justice. Moreover, attributing such powers to the state creates a menace not only to the state itself, but to the institution of private property as well. The Czarist régime in Russia will serve as an illustration. Among its other unwarranted pretensions, the Czar's government insisted on the adequacy of the *de facto* theory of property. The theory, however, was notoriously out of harmony with the requirements of social justice and equity. As a result, both the government and the institution of private ownership were overthrown by the revolutionists of 1917. The possibility of similar upheavals in other countries is not so remote as might ordinarily be assumed.

Grave injustices exist in modern society because of the acceptance of the *de facto* theory of property. To illustrate, under the present organization of the financial exchanges of New York, London, and Paris, huge sums of money change hands every hour, and not infrequently, through artificial manipulation. Very often, these transactions, when not positively unjust, are highly tinged with fraud and misrepresentation. Strictly speaking, those who lose their holdings by speculation cannot justly complain of the system, inasmuch as they are not obliged to risk their property on the exchange. But a large part of the general public have a just cause for complaint. This is true especially of those in need of loans, for example, small farmers in the South and Northwest, who are forced to pay excessively high interest rates because of the activities of professional stock operators and market "riggers." Again, the general public suffers frequently because of the unrestricted buying and selling of commodities on the exchange. For example, consumers are forced to pay excessive prices for wheat, meat, eggs, dairy products, and other staples of life, when powerful traders succeed in effecting a "corner" on these goods. Such market activities are sanctioned by law; at least, the law does not prohibit them. It is not asserted here that the government should regulate these activities more minutely than it does. Probably the government could not enforce successfully an elaborate scheme of market regulation. It is asserted, however, that the *de facto* theory on which the existing system rests, is the cause of serious and far-reaching injustice.

Other illustrations may be cited to show the evil social consequences of the *de facto* theory of property. Not infrequently, large corporations pool their resources in holding companies, or mergers, for the purpose of destroying the competition of rival firms and "maintaining price agreements." The Federal Trade Commission has been established to prevent such "unfair practices," but it happens frequently that these practices become more or less firmly established before the Commission is able to act. In the meantime, great injustices are committed against the buying public. To this must be added the fact that new methods of evading the law are devised more rapidly than new laws can be passed, and during the interval, which may extend over several years, grave injustices are inflicted on consumers.

Finally, the *de facto* theory of private ownership is utterly untenable, in view of the grave difficulties to which the poor and lower middle classes are subjected in obtaining justice in the civil courts. This phase of property has been treated at considerable length in Report No. 398, of the U. S. Bureau of Labor Statistics. One of the important conclusions of this Report is that those who possess little or no property, are unable to secure justice in court because of their inability to retain legal counsel. This situation contains within it the seeds of grave social disorder, and, consequently, refutes the position that private ownership rests on a sufficiently stable basis when it is grounded merely on economic forces sanctioned by the state. Thus, the two main objections against the *de facto* theory are: its implied denial of objective justice; and its creation of a set of social conditions that are a menace both to the state and to the institution of private ownership itself.

D. The Labor Theory.—The labor theory of private ownership holds that the right to own private property rests on a person's innate right to the products of his labor. This theory was originally propounded by John Locke in 1690. Locke began by laying down certain "laws of nature," and on these he based his theory of property. These "laws of nature" included the following: first, every man has a property right in his own person, that is, he owns himself; secondly, nobody but himself has a property right in him. Continuing, Locke argued that because every man owns his own person, he owns also the fruits of the labor and energies of his person. Consequently, concluded Locke, when a man "mixes" his labors with material things, the finished product belongs to him.[10] This doctrine was taken over subsequently by two mutually hostile schools of social thought, that of individualism and that of socialism.[11] Locke did not foresee this. In fact, he was concerned primarily with vindicating the theories of individualism, that is, he sought to emphasize the rights of property of each individual as against communal or collective ownership.[12] As such, Locke's teaching was incorporated into the doctrines of the classical economists, Adam Smith, Ricardo, and McCulloch.[13] By a strange turn of fate, however, the Socialists in the middle of the nineteenth century, seized upon Locke's doctrine and embodied it in the slogans: "To every man according to his labor," and "The worker is entitled to the entire product of his labor." The labor theory of Locke has thus become the cornerstone of the Socialist theory of distribution.[14]

The labor theory of private ownership is open to serious objections. Labor is, at most, only one of the titles of property, and cannot be regarded as the exclusive title of *all* ownership. To illustrate, if the workers in a chair factory are paid $500,000 per year as wages, they have an unquestioned title to the ownership of this $500,000. But they have not a title to the total value of the chairs made during the year, which may sell for as much as $3,000,000. The persons who owned the lumber, metal, leather, and other materials out of which the chairs were made, must be compensated out of the selling price. Other groups in addition to the laboring force, which includes superintendents and foremen, have contributed to the finished product, for example, the risk-takers and owners of the raw materials. These are entitled to a share of the market price of the chairs. This illustration shows that labor is not the only basis for the ownership of wealth.

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[10] *Of Civil Government,* Treatise II, Chapter V, Paragraph 26.

[11] Various Writers, *Property, Its Rights and Duties,* p. 49.

[12] *Ibid.,* p. 49.

[13] Antoine, *Cours d'Economie, Sociale,* 6me ed., p. 551.

[14] Marx, *Capital,* Vol. I, translated by Moore and Aveling, pp. 41–96.

The labor theory that the producers of goods are entitled to the entire product, is valid in only a hypothetical case, and one that rarely exists. If, for example, the chairworkers, as above, own the lumber, steel, upholstering, and other materials, together with the shop and machinery necessary for making chairs, they would have an unquestioned right to the entire value of the output of the factory. But in this instance their ownership rests, not on one title, but on three: namely, ownership of materials and machinery; risks; and labor. Thus the theory that labor creates *all* value is not valid, and does not provide a foundation for the ownership of all goods.

It is to be noted that there are many goods which possess economic value, and which are justly held as private property, but which have not been produced by labor in the sense in which the term "labor" is used ordinarily. Among such goods are land, mines, quarries, and water-power sites. Private ownership of these goods is attacked by a certain group of labor-theory advocates. This group is known as the Single Taxers. They hold that since land and natural resources are not produced by labor, they may not be held rightly as private property. This argument, they insist, applies especially to newly discovered countries: the claimants of such land have no valid right to own it, inasmuch as they did not produce it by labor; consequently, all later titles are worthless also. Henry George writes: "As for the deduction of a complete and individual right to land from priority of occupation, that is, if possible, the most absurd ground on which land ownership can be defended." [15] The position of the Single Taxers in denying all validity to the title of first occupancy is extreme and unwarranted.[16] First occupancy, within proper limits, that is, if it is not extended to include land monopoly, is recognized by all peoples as a just title of ownership. Later, or derived, titles are therefore valid also.

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[15] *Progress and Poverty*, Book VII, Chap. I.

[16] Ryan, *Distributive Justice*, rev. ed., pp. 24–26.

Equally extreme and unwarranted, is the position of those labor theorists who hold that land values were created originally by labor, because human energy is required to explore new countries, mark off holdings, and file proof of claims. Such activities cannot be designated properly as productive labor. The energy expended in taking possession of unoccupied natural resources, such as, lands, forests, mines, and water sites, confers a legitimate title of ownership, but the energy thus expended is entirely different from that commonly recognized as productive labor. Taking possession of unowned or unoccupied natural resources, is merely designating as one's own what has not been previously claimed by another. Moreover, it usually involves far less expenditure of effort in proportion to the value of the property than does manual labor. To repeat, all peoples have regarded first occupation as a valid title of ownership. Hence the position of both the Single Taxers and of those who hold that labor and not first occupancy is the original title of ownership of natural resources, is untenable.

The criticism of the labor theory of property may be summarized by saying that the theory is a valid basis for the private ownership of *some* goods, but it is not a valid basis for the ownership of *all* goods. If labor were the exclusive title of ownership, the claims of investors and first occupants would have to be denied. But these claims rest on a firm basis, and must be adequately compensated in the present scheme of production. Their validity will be demonstrated in Sections III and IV of this chapter.

II. INADEQUATE POLITICAL THEORIES OF PRIVATE OWNERSHIP

The theories of private ownership just discussed are embodied in two types of governmental theories, which aim to define the relation of the state to property. The first type unduly restricts property rights, the second unduly enlarges them. The first makes an owner merely a holder of goods; the second makes him an absolute lord.

A. Collectivist Theories.—Among the defenders of the first set of theories are practically all the writers belonging to the communist school of economics. These writers base their political doctrines of property on the labor theory of ownership. Karl Kautsky says: "Therefore a commodity possesses value only because homogeneous or general human labour is embodied in it. How then is the magnitude of its value to be measured? By the quantity of value-forming material, or labour, contained in it. Now the quantity of labour is measured by time. It might seem that if the value of a commodity is determined by the time expended upon its production, the idler and more unskillful a man is the more valuable his commodity would be. But the labour we are concerned with here is not individual, but social, labour.''[17]

This principle is applied rigorously to practically all goods. Thus the collectivist does not permit the private ownership of goods derived from property, even though this property has been earned by labor. For example, a man who has accumulated $5,000 through labor, would not be allowed to keep the interest accruing from this money, nor to use it in purchasing a factory or other tools of production. Neither would he be permitted to bequeath this sum to his children, because they would then possess property for which they had not toiled. To give these theories practical validity, the political doctrinaires of the collectivist school insist that governments must be reorganized. Each state must begin by nationalizing its major industries, such as the railroads and electric power plants; and gradually assume control of all productive processes. In this way, the state, or community, will see that only those who toil will share in the returns from property plus their labor.

One of the strongest objections to the collectivist theory of property is the utter impossibility of putting it into practice. To carry out the collectivist program the government would have to exercise the most absolute powers. At the outset, it would be obliged to militarize workers.[18] The country would, therefore, consist of a small group of dictators on the one hand, and a great mass of regimented serfs on the other. Even the most altruistic and civic-minded would chafe under the resulting restrictions on their freedom. Such impairment of personality would not be endured indefinitely, and, sooner or later, the scheme would be voted out of existence, or overthrown by force. The unworkableness of the theory is, therefore, a cogent argument against its validity.

Another political theory which unduly restricts the rights of property owners is the ''social function'' theory. The proponents of this theory insist that property is merely a social function. By this they mean that society holds the title to all land and tools of production, and those who own and operate them are commissioned by society to perform their duties or functions for its benefit. The owners of property are, therefore, merely functionaries of the state or, more accurately, its employees. They may hold their present property only so long as the populace feels that they are performing their duties in a satisfactory manner.

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[17] *The Economic Doctrines of Karl Marx*, translated by Stenning, p. 14.

[18] Laski, *Communism*, p. 161.

The more prominent advocates of the ''social function'' theory are Gide and Tawney.

The ''social function'' theory is a false and dangerous conception of the state's relation to property. It is false, insomuch as it considers the state as the source of property rights, and makes the state virtually the supreme owner of all property. It is dangerous, inasmuch as it destroys the firm foundation of property, and substitutes for it the vague and shifting title of ''social function.'' By its terms the property owner would be reduced to the rôle of an employee or trustee of the state, to be dispossessed at any time by the popular will.

It should be added, however, that the ''social function'' theory is open to a variety of interpretations, one of which is quite defensible. A legitimate interpretation of the theory applies to those who possess wealth greatly in excess of their needs and comforts. These persons have definite social duties or functions to perform, in the sense that they are not free to use their surplus in disregard of the necessities of others. Property rights are charged with certain other restrictions or functions dictated by social needs. These will be described at greater length in Section IV of this chapter.

B. Individualist Theories.—The individualistic theory of property is the direct antithesis of the collectivist theory. The advocates of individualism teach that the property owner is vested with absolute control over his wealth, and may ''use or abuse'' it (*jus utendi et abutendi*), as he sees fit. This conception of property has come down from the ancient Roman Law, and, in modern times, has been incorporated in the Code Napoleon. It is held to be applicable to the entire field of economic goods, both fixed and movable.

According to the rigid requirements of individualism, a landowner enjoys exclusive jurisdiction over his land. Even if his holdings run into millions of acres, he is immune from all social restrictions. Though he himself may not be able to cultivate the land, he may justly prevent others from doing so, even those who have no other means of livelihood, and are ready to pay for its use. The same unlimited powers of ownership are conferred on the owner of movable goods, and the recipient of income in whatever form. Accordingly, the possessor of vast wealth may not be enjoined legally from wasting his goods, or accumulating wealth indefinitely, irrespective of the evil that he may thereby cause to the community.[19] Briefly, the property of the individual, whatever its volume, or to whatever use it may be put, is sacred and inviolable. The state, therefore, is not warranted in restricting its size, or preventing its improper use. Consequently, inheritance tax laws, graduated income tax laws, and laws which serve the public interest by regulating contracts, are unjustifiable encroachments by the state on the rights of property.

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[19] Garriguet, *Manuel de Sociologie*, p. 192.

The strongest indictment of this absolutistic doctrine is that it gives the possessors of great wealth powers fraught with grave social dangers. In point of fact no modern state has been able to follow this doctrine in its extreme form.[20] Numerous examples in the field of social legislation may be cited to show that governments find it necessary to abridge the rights of property in order to protect the common welfare.[21] One illustration will suffice. The various governmental commissions which set the rates of street-car companies, railroad, telephone, water, and gas corporations, definitely limit the earning powers, and hence the property holdings of owners. The extreme individualistic theory of government toward property is, therefore, both untenable in principle and impracticable in application. As explained in Section IV below there is a political theory of property which occupies a middle ground between the collectivist and the extreme individualist theories. This middle-course theory cannot be adequately discussed until a more fundamental question is answered: namely, what is the ultimate basis of private property? The answer to this question will now be given and explained.

III. JUSTIFICATION OF PRIVATE OWNERSHIP

It was seen in Section I of this chapter, that four distinct theories have been advanced to explain the origin of private ownership, namely, the contract theory, the legal theory, the *de facto* theory, and the labor theory. Each has been demonstrated to be either false or only partially adequate.

The discussion to follow will show that the source, or foundation, of private ownership is the nature, or personality, of human beings. The natural necessities of every individual demand that he own goods sufficient for present and future needs, and, in addition, that he be free to increase his goods indefinitely up to a limit fixed by the needs of others. The truth of this assertion appears from a consideration of man, first, as an individual apart from his social relationships, and secondly, as a member of society.

A. Individual Welfare.—First, the welfare of every person requires that he be permitted to own, at least, some goods privately. Clearly, the individual cannot enjoy welfare if his primary needs are not satisfied. Primary needs, in turn, can be satisfied only through the ownership of some property. Foremost among these needs is that of life. Closely allied to it, or, more correctly, one of its phases, is the need of growth and development. Neither need can be satisfied without goods over which the subject has complete authority. In regard to the first, the necessity of having complete authority is self-evident: life cannot be maintained unless a person has goods to consume. In regard to the second, the necessity is scarcely less evident. A visit to the homes of the very poor, or propertyless, will show that this is true. The phrase, the *cramped* lives of the poor, describes literally their sordid lot. As they are without goods of their own, the powers of their minds and bodies are cramped, or prevented from growing. In technical language, they have no "access to the goods of the earth." The result is that they are prevented from securing the amounts of food, clothing, and shelter, necessary for normal growth and development.

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[20] Garriguet, *Manuel de Sociologie*, p. 203.
[21] Pipkin, *The Idea of Social Justice*.

The propertyless are unable to eat nourishing food, wear warm clothing, or be sure of shelter when threatened with eviction. On the other hand, the well-to-do, because of their property holdings, enjoy the widest range of freedom and opportunity for growth. They can choose the type of house they will live in, the quality of clothing they will wear, the kinds and amounts of food they will eat, and the character and degree of education they will give their children. Communal ownership, it is urged, would give the propertyless the freedom of growth and opportunity now denied them. This, of course, assumes that a communal system of production can provide a volume of output sufficient to feed and clothe the entire community. This assumption, as will appear from the following section, is not at all warranted. Moreover, even if it were warranted, the maintenance of a communist régime of production would require the sacrifice of important forms of freedom. Each person would be merely a user of goods, in his capacity both of producer and consumer. In either capacity his liberty would be seriously curtailed, as his use of goods would be contingent on the will and direction of others, who would be co-owners with him.

The necessity of property for individual welfare manifests itself in another way. One of the main ingredients of a sound personality is self-reliance, or an unwillingness to have others do for one what one can do for oneself. Private ownership provides an outlet for the exercise of this quality, whereas, communal ownership would stifle it. Communal ownership would not merely make it impossible for the individual to care for himself, but would encourage him to depend on others and impose on them. Moral flabbiness and stagnation would necessarily result.

Next to the need of the individual for growth and self-reliance is his need of family life. This need asserts itself in every person, regardless of sex or age. The need of home life for parents and children has been demonstrated at length in Chapter VII. But permanent home life cannot be maintained unless the right to own property up to a fairly high limit is conceded to every family. Nature has endowed parents with love and affection for their offspring in order to guarantee the continuation of the race. Parents, however, would be unable to exercise these natural attachments and inclinations, unless they were permitted to own and hold property for their children's care, both for the present and the future. To prevent parents from owning a home, and the present and future means of securing food, clothing, and education for their offspring, would frustrate one of the strongest instincts of their nature. The social effects of such unnatural interference would be disastrous, for family life would be rendered practically impossible. Very logically, some of the nineteenth-century Socialists demanded the abolition of both family life and the existing system of private ownership.[22] Private ownership, up to reasonably high limits, falls or stands with the monogamous family. But, as was seen in Chapter VII, the monogamous family is a direct requirement of man's nature. Inasmuch as private ownership is a necessary support of the family, it, too, is required by nature. Thus the basic needs of the individual, namely, the need of life and growth, self-reliance, and family organization, demand the private ownership of goods.

B. Social Welfare.—In the second place, social well-being requires that some goods, at least, be owned privately. This is a corollary of the principle that individual welfare requires the private ownership of goods. What nature requires for individual welfare cannot be at variance with what it requires for public welfare. One of the most compelling arguments that private ownership is necessary for public welfare is the experience of past generations. No nation in the past has been without private property. Moreover, history shows that progress, both economic and cultural, is possible only by conceding to individuals the right to own property permanently. An analysis of the motives of human action confirms this conclusion. A person will work to the limit of his capacity, if he is assured that he can keep the fruits of his labors.

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[22] Engels, *Origin of the Family*, translated by Untermann, pp. 98–100.

Conversely, he will content himself with a minimum of effort and saving, if the products of his toil and sacrifices are distributed among strangers. If private ownership were abolished, the total volume of goods available for distribution would unquestionably be diminished. How great this decrease would be, it is impossible to say. But it would doubtless be so great that the population would suffer for want of the material and cultural necessities of life. Hence private ownership is a powerful aid in providing an adequate social product.

Private ownership promotes public welfare in another vital way. There is no welfare in a state, unless disorder and conflict are kept at a minimum. This result is achieved to a large extent through private property. While it is true that many crimes, and even murders, are committed because of property, nevertheless, their number is negligible as compared with the bloodshed and confusion that would ensue if legitimate property rights were not recognized. This difference can be visualized by contrasting the relative orderliness in industry at present, with the disorder that would necessarily prevail in a collectivist system of production. In modern industrial society, a hierarchy of vocations and trades is maintained largely because of private property. Some workers are in the skilled crafts, others in the unskilled; some are in the professions, others in commerce and business; some are in managerial positions, others perform the humbler tasks. It is scarcely necessary to add that all callings, high or low, are necessary for the productive process and the common good.

Private ownership aids in upholding the hierarchy of occupations necessary for production, and thereby contributes vitally to the maintenance of social order. In the first place, unlike collectivism, it can give greater rewards to some than to others, and select those who are better qualified for organizing and directing industrial units. As a result, it is able to draw a line between employers and employees. Again, the system can assign workers to the various crafts, because of their property holdings, or those of their parents. To illustrate: A young man wishes to become a draughtsman. Out of their savings his parents assist him during the eight or ten years of his schooling and apprenticeship. After completing his training he finally realizes his ambition. Clearly, the property of his parents contributed toward making him a draughtsman. Another young man wishes to become a carpenter. Preliminary training, and consequently financial aid, are required to make him a carpenter, although not to the same extent as in the case of the draughtsman. His parents give him a ''start'' out of their savings, and after serving four or five years of apprenticeship he becomes a skilled carpenter.

Obviously, property considerations have contributed toward making one of these young men a draughtsman and the other a carpenter. They were not, of course, the sole determinants. Other factors also played a part, for example, native ability, initiative, home training, and special physical or mental aptitudes. Besides, in exceptional instances, the possession of unusual gifts may overcome the barriers created by the lack of property, as witness the men who by dint of sacrifice and industry rise from boyhood poverty to positions of great responsibility. Nevertheless, property considerations are a controlling factor in securing workers for the various grades of labor, and in this sense, the system of private ownership plays an important rôle in maintaining social order.

In a similar way, the institution of private property keeps the ranks of the professions filled with new recruits. It not only makes it possible for young men and women to devote the necessary years of training to medicine, law, education, or engineering, but attracts them to these callings through the hope of higher financial rewards. Although the system does not work out satisfactorily in every instance, it effects a certain degree of order and preserves a considerable margin of freedom that would not be possible under a collectivist régime. In a state in which private ownership is not recognized, the task of assigning workers to various occupations would have to be taken over by governmental officials, vested with practically unlimited authority. This arrangement would open the door to endless favoritism, bickerings, and disorder.

Private property is an important factor also in effecting order in the productive process. Under present-day economic organization, the private owners of the tools and plants of industry are also the directors and managers. While public welfare demands that the structure of the existing system be modified in the direction of giving wage-earners a greater share in planning and managing, nevertheless, the system is far preferable to a collectivist scheme in which the managers of industry would be either elected officials or self-constituted dictators. If the managers were elected by the people, jealousies and constant disorder would prevail among workers in seeking the supervisory positions and avoiding the rougher and more exhausting tasks. If the managers were dictators, a still more fundamental problem would arise, viz., that of getting the great mass of people to carry out the orders of a small group of industrial masters.

Finally, if a thoroughgoing system of collectivism could be devised, it would be impossible to maintain peace and order in distributing the products of industry. The instinct to have and to own would assert itself in all levels of the population, and the experiment would end in anarchy and chaos. If this description seems fanciful and overdrawn, there is abundant reason to believe that it offers only a suggestion of the difficulties that would arise if a scheme of this kind were to be attempted. It is evident, therefore, that a system of production based on private ownership is, despite its admitted shortcomings, essential to peace and order in the state.[23]

IV. THE IDEAL RELATION OF GOVERNMENT TO PROPERTY

A treatment of the institution of private ownership would be incomplete if it stopped with a mere vindication of the institution. It must discuss the vital question of the relation of government to property. In considering this question it is necessary to keep in mind that the primary functions of government are to protect the rights of the governed, and to promote the general welfare. (Cf. Chapter X.)

The property functions of government are conditioned by the fact that property rights are not absolute: that is, an owner may not increase his possessions indefinitely, nor use them to the prejudice of the welfare of others. To permit him to do either would invite grave social evils. To illustrate, when a very small number of persons in a country own the overwhelming proportion of its wealth, a serious social injustice results. The injustice consists in the fact that the great mass of people are thereby forced to share only a relatively small amount of property or, as in the case of some, to be without it entirely, and consequently subjected to great hardship and privation. Hence, it is in order to ask whether a government is justified in restricting the freedom of property holders, either by regulating the methods by which they acquire wealth, or by actually limiting the amount which they may acquire. The answer to this question is contained in certain postulates regarding the nature of property. These postulates will be stated briefly, and then applied to the question under consideration.

1. There is no absolute right of property. A property holder is not free to exercise his property rights, regardless of the interests of the community. Property ownership is a moral right, and as such is subject to the provisions of the moral law. The moral law both protects the property owner and imposes certain obligations on him: it binds

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[23] Pesch, *Lehrbuch der Nationalökonomie*, I, 2 aufl., p. 209.

others in conscience to refrain from taking or using his goods against his will; and it forbids him to use his goods to the detriment of the community.

2. The right of some to possess property in abundance is subordinate to the right of others to live. Hence, when A is in extreme need, and B has a surplus of wealth, A's right to live is superior to B's right to withhold the means of living from him.

3. The ownership of private property is not an end in itself. The well-being of individuals, families, and the community is the end, and private property is a means to this end.

From these postulates it follows that a government may, and sometimes must, adopt certain measures with reference to private property; and that it may not adopt others.

A. What the State May Do.—By virtue of the first postulate, as stated above, the state is obliged to use its powers to remove the major social evils which accompany private ownership. Among these evils are the social injustices arising out of the present unregulated system of land ownership. Grave evils often result from speculation in land which is situated on the outskirts of cities and is necessary for homes. Such speculation will be discouraged and home-owners will be spared unwarranted burdens, if the state appropriates some of the future increase in land value by imposing an "unearned increment" tax. This is a justifiable use of state power for the promotion of the public welfare.[24]

Other illustrations of the governmental limitation of property rights are the laws which regulate the internal financing, and the rate charges of public-utility corporations. Such corporations are usually monopolistic in character, and, if allowed to operate without restraint, are easily able to exact excessive charges, and thereby become a public menace. Hence the state may require insurance companies to include certain standard clauses in their policies; and set maximum rates for railroads, power and light companies, and other privately-owned utilities. All such laws impose restrictions on property rights, and involve a legitimate use of governmental power, because they are necessary to protect the public interest.

The second postulate enunciated above, is embodied to a greater or less degree in the laws of all modern states. The legislators of all states accept tacitly the principle that the right to life of those in extreme need is superior to the unrestricted rights of ownership of the well-to-do. Thus taxes are collected from those who can pay taxes. Some of this money is used to maintain orphanages, health centers, homes for the blind, the deaf and dumb, and the mentally defective; and to create pension funds for fatherless children, the blind, the tubercular, and the needy aged. In effect, the state or municipality takes property from those who have it, and gives it to those who are in distress. Moreover, the community assumes that the greater the amount of property held by an owner, the greater his obligation is toward the dependent. The graduated-rate features of the income and inheritance tax laws are illustrations of this principle.

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[24] Ryan, *Distributive Justice*, rev. ed., pp. 99–104.

From the third postulate enunciated above it follows that the state has the duty to act on the principle that the welfare of all of its people is its supreme end, and that individual freedom to own property must be restricted when this is necessary for the public interest. The subordination of property rights to public welfare is the underlying theory of all industrial legislation. In the last analysis, every labor law places a limitation on freedom in the wage contract. This limitation frees the weaker party, that is, the worker, from the disadvantage to which he would otherwise be subject. To illustrate, a minimum wage law restricts the economic freedom of a corporation, by preventing it from paying a worker the low wage of the unskilled labor market, and obliging it to pay, at least, the amount necessary for normal family life. In like manner, a 48-hour-week law restricts the economic freedom of a corporation by forbidding it to keep a worker employed longer than 48 hours per week, even though it might prefer to operate its plant beyond this time limit. The accident compensation laws likewise restrict the economic freedom of an employer, by requiring him to pay an injured worker or his dependents a fixed sum, rather than an amount determined by private negotiation, or by a jury. Social legislation, of whatever character, is a compulsory taking of property from the economically strong, and placing it at the disposal of those who are wronged or in need. This procedure assumes that private property is only a means, and that the well-being of the individual, the family, and the community is its ultimate end.

B. What the State May Not Do.—After considering the legitimate activities of the state in restricting property rights, it is necessary to mark off the boundaries beyond which the state may not go in interfering with the freedom of property. These boundaries are fixed by the various needs of human nature. It will be recalled from Section III above, that private property is necessary for individual and social well-being, and that society progresses only when a fairly wide margin of freedom in acquiring and owning property is guaranteed. The requirements of individual and social well-being are contained in the following principles, which are stated or assumed in the Encyclical of Leo XIII, *On the Condition of the Working Classes.*

1. The ownership of goods necessary for home life and the integrity of the family, is required by man's nature, and may not be restricted, nor, in any sense, transferred to the tenure or administration of the state. These goods include food, clothing, living quarters, household goods, furniture, and books. The need of owning these goods is rooted in the being of man, like family life itself. Hence the state may not weaken or abolish property rights in these goods. Incidentally, the state could not do this successfully, as nature would assert itself, and individuals and families everywhere would ignore this unwarranted interference.

2. The natural law demands that both individuals and families be permitted to own that volume of goods which is necessary for their future needs. This follows from the requirements of welfare, which is impossible without security. An individual does not enjoy well-being if he is harassed by fear, and cannot be reasonably sure that he will be able to meet the certain needs of the future. The same applies to the family. The power to own goods for future use, therefore, is demanded by individual and family welfare. The needs of the future may be met in various ways, either by the ownership of land, income-bearing securities, or annuities. The state would violate the rights of man's nature, if it were to take these goods out of the hands of individuals or families, and attempt to administer them itself. An additional proof of the unnaturalness of an experiment of this kind, is the utter inability of a government to guarantee future security to individuals and families.

3. The private ownership of land and productive capital is one of the ordinary means of providing for the future. Man's nature, however, is not such that it requires him to own a definite tract of land. A wide diffusion of land ownership is highly desirable; nevertheless, the vast majority of the population of the country does not own land, and yet apparently, is able to care for its future needs, despite this fact. On the other hand, the circumstance that a large section of the people does not own land, is not proof that private ownership of land is not in conformity with man's nature; nor is it proof that land should be owned in common. On the contrary, the natural law sanctions the ownership of land by individuals as one of the best means of caring for their future needs. Consequently, the present owners of land cannot be dispossessed by the state, without being assured that adequate provision will

be made for their future necessities. The taking of land by the state might be effected either directly or indirectly: directly, by outright appropriation, or indirectly, by taxation. Neither policy may be undertaken without either compensation to landowners, or the establishment of some other system to meet their certain needs of the future.

4. The land and capital now held by private owners may not be converted into state property, even with compensation to its present owners, unless it can be shown that the state is able to operate a better land system, and a better system of production, than those now in operation. The test of a "better" system is the natural law, which declares that system to be better which provides a greater degree of human welfare. If governmental ownership of land and operation of industry would assure a wider measure of human welfare than that secured by private ownership of land and private operation of industry, the former are more in harmony with the requirements of the natural law than are the latter, and should be introduced. But the presumption is against this supposition. Generally speaking, welfare is promoted best by allowing the widest margin of freedom to private initiative, and, accordingly, the state should intervene only when private initiative has clearly failed, for example, when it has become a source of injustice to the community. These principles serve to mark off the boundaries between individual and governmental ownership and to show what the state may not do with reference to property.

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QUESTIONS FOR REVIEW

1. What are the essential attributes of ownership?
2. What is meant by the title of prescription?
3. Discuss the adage: Possession is nine points of the law.
4. What is the contract theory of private ownership? Criticize the same.
5. What is the legal theory of private ownership? Criticize the same.
6. What is the *de facto* theory of private ownership? Criticize the same.
7. Is it ever possible to acquire a just title to stolen goods?
8. What is the labor theory of private ownership? Criticize the same.
9. What is the collectivist or socialist theory of ownership? What are the objections thereto?
10. If property were held in common would theft still be possible?
11. Outline the individualistic theories of property ownership.
12. Show how individual welfare is promoted by private ownership.
13. Explain the necessity of private ownership for family welfare.
14. Show how social well-being is promoted by private ownership.
15. Explain the necessity of private ownership for the maintenance of order.
16. What is the relationship of private ownership to government?
17. What are some of the proper limitations placed upon a person preventing him from using his property as he pleases?
18. Discuss: "The right to own property is subordinate to the right to life."
19. Explain why the ownership of private property is not an end in itself.
20. What proper limitations may a government place upon owners of property?
21. Why are public utilities subjected to governmental control?
22. What are some of the things the state may not do in regard to private property?
23. Show why a man's property cannot be taken for public use except after just compensation has been made.
24. Under what circumstances is it just to take private property for public use?
25. Under what circumstances is it unjust to take private property for public use?

CHAPTER XV

The Problem of Wages

I. THE COMPETITIVE WAGE AND THE LIVING WAGE

A. The Extent of Low Wages—B. The Causes of Low Wages—C. The Ethical Basis of the Living Wage—D. Objections to the Living Wage—E. Means of Securing the Living Wage

II. GOVERNMENTAL REGULATION OF WAGES

A. The State and Price Fixing—B. Definition of a Minimum Wage Law—C. History of Minimum Wage Legislation—D. Arguments for a Minimum Wage Law for Men—E. Arguments against a Minimum Wage Law for Men—F. Estimate of Arguments for and against a Minimum Wage Law for Men—G. Conclusions and Proposals

When a man gets employment in a factory he enters into a contract with the concern that hires him. He agrees to perform a certain amount of labor and the concern agrees to pay him a certain amount of wages. From the standpoint of the worker, especially if he is an unskilled, or "common" laborer, the main consideration is the size of the wage. Ordinarily, he cannot stop to think of other items which would make the contract satisfactory or unsatisfactory to him. There is, for example, the question of hours. Is the working day eight, or ten, or perhaps twelve hours in length? There is also the matter of health. Does the work involve only the usual physical wear and deterioration that result from all manual labor, or is it especially injurious to the eyes, ears, or lungs? Thirdly, is the machinery fairly safe to operate, or is it unusually dangerous to hands, feet, or life itself? Finally, but not of least importance, is the job steady, or does the shop shut down from sixty to one hundred days each year? Important as these questions are, the unskilled worker is usually obliged to disregard them, and consider only the question: "How much wages am I going to get?"

Accordingly, this chapter will study only that feature of the wage contract which is uppermost in the worker's mind, namely, the question of wages. It is not to be understood that the other questions of hours, health, hazards, and unemployment are of minor importance, but under existing conditions, they are subordinated in the worker's thought, to the major question of wages. This chapter, therefore, will examine the wage contract only insofar as wages are concerned. Even with the field thus narrowed, it will be necessary to examine several topics which are seemingly unrelated to the main question, but which have a very direct bearing on it.

This chapter will discuss the wage contract from two points of view: (1) The Competitive Wage and the Living Wage; (2) The Governmental Regulation of Wages.

I. THE COMPETITIVE WAGE AND THE LIVING WAGE

A. The Extent of Low Wages.—It is common knowledge that a very considerable number of able-bodied men workers are receiving less than an adequate family wage. Secretary of Labor Davis says that there are "several millions of unskilled laborers in the United States whose wages are so low as to constitute a moral and economic misfortune."[1] It is impossible to say precisely what proportion of the wage-earning population is in this necessitous condition, but a fair estimate would place the number somewhere between thirty-five and fifty per cent of the total. Professor Fitch writes: "The conclusion seems inescapable that the majority of the wage-earners of the country during most of the time for which figures of wages and living costs are available have received an income that was insufficient for the maintenance of a proper standard of living."[2] This estimate is not extreme when one compares the actual yearly earnings of factory workers with the amount necessary to maintain a family at a minimum of health and decency.[3]

It is impossible to give the actual earnings of workers in all the industries in the United States. The student of wages is referred to the files of the *Monthly Labor Review* of the U. S. Department of Labor; the bulletins of the various State Industrial Commissions, especially those of Massachusetts, New York, Illinois, and Wisconsin; the publications of the National Bureau of Economic Research, and of the national statistical bureau of American manufacturers, known as the National

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[1] U. S. Department of Labor, *Monthly Labor Review*, August, 1927.

[2] *The Causes of Industrial Unrest*, p. 56; see also Hartman, *Should the State Interfere in the Determination of Wage Rates*, Prize Essay, published by the National Industrial Conference Board, pp. 54, 65.

[3] U. S. Department of Commerce, *Census Monograph* X, 1929, *Earnings of Factory Workers*, 1899–1927.

Industrial Conference Board. These reports will show clearly that the earnings of male workers in the unskilled occupations range from $750 to $1,000 per year. At the present time (1930) the market rate for unskilled labor in the Northern States is between thirty-five and forty-five cents per hour for time work. But, it is to be observed that whatever data on earnings are gathered, little information will be had as to the adequacy of wages, because the prices of living commodities are constantly changing. The index for wages and the index for retail prices do not move together throughout the year. At times, the cost of living moves upward more rapidly than do wages, and again, at times, wages move upward more rapidly than does the cost of living. All that may be safely said in regard to low-income receivers is that on any given date a very large section of the working population, somewhere in the neighborhood of two-fifths of the total, is living beneath the level of decent subsistence.

B. The Causes of Low Wages.—Something should be said of the causes which keep such large numbers of workers in the lowest-income class. The most important single cause is the free competition which operates among unskilled laborers.[4] If competition were restricted, or rendered less free, the wages of these workers would be increased. Wages always increase as competition among workers decreases. This will appear from a comparison of the wages of the skilled with those of the unskilled. The skilled are in the high-wage class, and, for the most part, members of union organizations. The union maintains high wage-levels for them by preventing them from bidding against one another. Union representatives meet with representatives of employers and agree on a ''standard'' or minimum rate, and no worker in the union is permitted to work for less than this standard or minimum sum. In this way the wage is maintained at a minimum level, and workers are prevented from competing with one another below the agreed amount.[5] On the other hand, unionism is almost entirely absent among the unskilled and the lowest-wage groups. Hence the unskilled worker bids actively against his unskilled fellow worker, and the descent of wages is halted only by the fact that the number of the unskilled is not unlimited.

It is, therefore, quite correct to say that the wages of unskilled workers are determined chiefly by the interaction of supply and demand.

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[4] For identical forces operating in Great Britain, see Florence, *The Economics of Fatigue and Unrest*, pp. 49–53.

[5] McCabe, *The Standard Rate in American Trade Unions*, Johns Hopkins Studies in Historical and Political Science, Series XXX, No. 2, p. 9; see also, the Webbs, *Industrial Democracy*, 1920 ed., Chap. VI.

This process was illustrated clearly in the clothing industry in the United States before and after the World War. Before the outbreak of the War, large numbers of immigrants had been entering the industry in New York and Chicago each year; and the wages of garment workers fell accordingly. But with the stoppage of immigration during the War, wages rose sharply. Jobs competed for men instead of men for jobs. Immigration, however, is only one of the several factors that increase the relative number of unskilled wage-earners. For example, the increasing perfection of automatic machinery, and the lack of vocational training also help to swell the ranks of the unskilled. As these factors operate, wages fall. Under free competition this is a necessary result. Bidding for jobs is keener when workers are many and jobs few, than when jobs are many and workers few. An excess of workers over jobs exists in American industries at present, and because competition is unrestricted, several millions of unskilled workers are forced to accept less than a proper living wage.

C. The Ethical Basis of the Living Wage.—The question may now be asked: Why should an employer be obliged to pay a worker at least a living wage? The most compelling answer to this question comes from the moral law and the rational nature of human beings. Every worker possesses certain potentialities that have been placed in his soul by his Creator. These potentialities may be viewed from the standpoint of earthly life or from the standpoint of eternal life. But they do not exist independently of one another. In fact, the powers of earthly life unfold into those of eternity. The former include the capacities to grow physically, to think, to know, to love, and in general to live at a level immeasurably above the plane of animals. The latter include the capacity to enjoy everlasting happiness. The development of both kinds of potentialities is determined to a very large extent by material environment, which in turn is determined almost entirely by income.

The influence of material environment on the physical and moral faculties of man during the course of his life, may be viewed at close range in any large city. If 100 low-wage families are compared with 100 families of adequate or comfortable income, an abnormally higher rate of sickness, infant and adult mortality, ignorance, child delinquency, drunkenness, crime and immorality, will be found to prevail among the former group than among the latter. The presence of the higher sickness rate among low-wage families can be readily understood. The inability to buy the necessary amounts of food, clothing, and housing induces a condition of permanent sub-normal health and an undue disposition to premature death.[6]

The lower moral and intellectual standards of low-income families are equally easy to understand. Poor physical vitality deadens the mind to cultural influences and reduces the moral resistance of the will. "It is hard for an empty sack to stand upright."[7] The undernourished person easily falls into a "don't care" attitude toward society and government. This is illustrated particularly in the case of children. The juvenile courts receive a disproportionately large number of cases from low-wage homes.[8] Again and again, records show that boy and girl delinquents "never had a chance," and that they sought food, clothing, and recreation in unlawful ways because their homes were unable to provide them with these necessities. It is evident, moreover, that the juvenile recidivist of today becomes the confirmed criminal of tomorrow.

From what has been said, it is not to be inferred that inadequate wages necessarily condemn the members of low-wage families to lives of crime, ignorance, and immorality. Yet the fact remains that the proportion of these evils is much higher among such families than among families whose income is sufficient to maintain proper living standards. It is correct, therefore, to say that more frequently than not the payment of less than a living wage prevents proper moral and mental development.[9]

Divine Providence has ordained that the temporal and eternal development of every person form one continuous growth, beginning in time and extending into eternity. In addition, He has made every person's claim to eternal happiness depend on correct and virtuous conduct during life. But, as just explained, vast numbers of persons find correct and virtuous conduct very difficult, and in some instances, apparently impossible, because they are forced to eke out a living at the plane of animal existence. One hesitates to attempt to fix responsibility for any probable failures with reference to the future life, that is, whether the major portion of the fault is to be charged against the individuals themselves, against the directors of industry, or against the consuming public. It is certain, however, that some of the responsibility rests on those who are in a position to remove the definite causative influences and fail to do so.

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[6] U. S. Treasury Department, Public Health Service, Bulletin No. 76, p. 6; No. 165, p. 5.

[7] Franklin, *Autobiography*, Everyman's Library, p. 114.

[8] Sutherland, *Criminology*, p. 168.

[9] Streighthoff, *The Standard of Living*, Chap. X, pp. 137–152; Russell Sage Foundation, *Wage-Earning Pittsburgh*, pp. 279–304.

Aside from the teachings of Christian Revelation, it is a wasteful economic policy for a community to permit any of its productive breadwinners to be paid less than an adequate family wage. This is illustrated very forcibly in the matter of health. At the annual meeting of the British Medical Association in 1923, the President, Dr. Charles P. Childe, said: "The breeding ground of this disease [tuberculosis], the environment most encouraging to its activities, are the sunless, airless, overcrowded, and unsanitary slum areas of our great cities. . . . Is it a sound economic proposition to equip and maintain at the cost of millions of the taxpayer's money, sanatoriums for the so-called cure of tuberculosis, while we guard intact the very preserves of this disease by the exclusion of fresh air and sunlight, which cost nothing at all, and maintain in our midst a soil which can breed more tuberculosis in a week than all our sanatoriums can cure in a year?" [10]

Dr. Childe's argument is that the very poor districts of the large city are a prolific breeding soil for tuberculosis, and that it is a shortsighted business policy for a community to content itself with building and maintaining sanatoria, while virtually ignoring the causes of the disease. The same argument, namely, that prevention is cheaper than cure, is valid almost in an equal degree for the other social evils,—crime, immorality, and mental defectiveness. The chain of causes operates in this order: first, insufficient income; secondly, improper living conditions; thirdly, environment breeding a high rate of anti-social conduct and physical and mental deterioration; and finally, high taxes. It should be added that high taxes are not the only effect of these causes. The whole community suffers in other, far more serious ways. The moral tone of the entire social body is lowered by the existence in cities of massed districts which show an abnormally high rate of immoral and anti-social conduct. These moral effects are by no means unreal because they cannot be measured in terms of tax sheets. They react on the whole community just as a disease which attacks but one member of the human body, affects the entire system.

D. Objections to the Living Wage.—There are two main objections to the payment of a living wage to all productive workers. (1) The first is based on the claim that not enough goods are produced in the nation each year to pay all workers an adequate family wage. The national dividend, that is, the combined value of all the goods and services produced in the United States in one year, is approximately ninety billion dollars. Considerably more than this amount, it is said, is necessary to pay the 20,000,000 adult male workers of the nation a family living wage, and at the same time to pay higher differential wages to workers who are more skilled and productive, and to continue the present system of compensating landowners, investors, and those who assume necessary risks.[11] Hence, runs the objection, the doctrine of the family living wage cannot be applied to the present scheme of production. (2) The second objection holds that it is idle to speak of a family living wage because it is impossible to estimate the amount exactly in dollars per week or per year. The prices of food, clothing, and other necessaries are constantly changing, and moreover, there is a wide difference in the size of families; consequently, an estimate of a family living wage for an average sized family is little more than a guess. The doctrine of the family living wage is therefore a purely academic fiction.

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[10] *The Lancet*, London, Vol. CCV, p. 156; see also Lauck and Sydenstricker, *Conditions of Labor in American Industries*, Chapter VIII.

1. *Objection That the National Income Is Too Small.*—Neither of these objections can stand careful scrutiny. The first proceeds on the erroneous assumption that the amount of the national dividend is fixed, and cannot be increased by from five to ten billions each year. In point of fact, the national dividend is capable of indefinite increase. The United States is rich in natural resources and manufacturing equipment. This appears from the fact that from 1899 to 1925, the total production of the country increased more than twice as rapidly as did the population. Again, the mechanical equipment of American manufacturing industries is so vast that it is capable of turning out a much larger volume of consumptible goods than is actually produced. According to Mr. James J. Davis, Secretary of Labor in Pres. Hoover's Cabinet, 14.5 per cent of the 1,570 boot and shoe factories employ 60.4 per cent of the workers in the industry, produce 65.6 per cent of the output, and could, with steady work for three hundred days per year, produce all the boots and shoes that are needed. In the flour industry, 2.8 per cent of the 8,019 flour mills employ forty-two per cent of the workers in the industry, produce 62.1 per cent of the total output, and could, with full-time employment, produce practically all the mill products that could be consumed. A still more striking condition exists in the bituminous coal industry.[12]

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[11] In broad outline this is the position of Professor Paul H. Douglas; see his *Wages and the Family*, pp. 11–26.

[12] U. S. Department of Labor, *Monthly Labor Review*, October, 1925.

Another item deserving close study in this connection, is the national luxury bill. According to reliable estimates, twenty-two billion dollars are consumed in luxuries each year in the United States. Even if half of this amount is regarded as necessary for reasonable comfort, there still remains the sum of eleven billions, which might be released toward the payment of living wages.[13] Mention should be made also of the vast savings that could be effected through the elimination of waste in production and marketing, in fashions, and in competitive advertising. The economies possible under any one of these headings would aid considerably in increasing the wages of the lowest-wage groups.[14]

The objection under consideration is attacked also by certain economists who advocate the ''high-wage'' theory of prosperity. The proponents of this theory hold that a tremendous increase in the national dividend would result, if wages were raised to the level of health and decency for all workers. Their reasoning runs as follows. If all low-wage workers were divided into two groups, A and B, and the wages of both groups were raised, the workers in group A would have more money to buy the products of group B, and therefore would keep group B employed more regularly than at present. Group B would in consequence be in a position to buy more of the products of group A, and therefore would keep group A more regularly employed. The same holds true of all workers, and, therefore the distress among low-wage laborers can be removed by paying all workers higher wages than they are now receiving. This is a simple analysis of the problem, and it is perhaps open to serious criticism. All the phases of the high-wage theory cannot be examined in detail here. It is sufficient to say that there are some authorities who staunchly defend it, and others who condemn it as reasoning in a circle. Whatever its merits, the facts presented above, namely, the natural wealth of the country, the enormous potential productivity of manufacturing facilities, and the huge costs of luxuries and wastes, clearly indicate that the national dividend is capable of indefinite increase and that therefore all productive workers can be paid a family living wage.

2. *Objection That the Living Wage Cannot Be Determined.*—The second objection to the universal payment of the family living wage is that the wage is impossible to determine, and consequently the right to it is too speculative for practical consideration. The force of this objection is not to be underestimated. The problem of fixing an exact

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[13] Chase, *The Tragedy of Waste*, pp. 85–92.

[14] Federated American Engineering Societies, *Waste in Industry*, pp. 8–24.

amount as a family living wage is highly complicated. Workers differ in strength, skill, and initiative; families differ in size; the various sections of the country differ in living costs and rents; and most important, the dollar is constantly changing in buying power.

Nevertheless, the problem of determining the living wage in dollars and cents is not insoluble. The most hopeful approach to a solution is to disregard for the moment the *cost* of commodities and to limit attention to the *quantities* of goods necessary to satisfy the basic needs of a worker's family. These needs can be classified and measured according to amounts of food, clothing, shelter, and miscellaneous necessities. The United States Bureau of Labor Statistics has published a list of the fundamental needs of a father, mother, and three children, in terms of quantities.[15] This list contains four hundred items, necessary to maintain these five persons at a minimum of health and decency. To repeat, the items are expressed in *quantities*, that is, in weights, measures, and numbers. They are the *amounts* of goods and services that are indispensable for the physical and moral sustenance of a family of five. They include: the number of pounds of animal and vegetable food; the number of square feet of floor space; and the number of articles of clothing, shoes, and sundries necessary to keep a father, mother, and three children at the margin of health and decency.

The first item that appears in the Bureau's budget is food. The amount of food adopted as a standard unit is that required each day by a man doing fairly hard muscular work. It represents a fuel value of 3,500 calories purchased, and 3,200 calories consumed. The food requirements of the father are taken as one hundred, and those of the mother and each of the three children are expressed in percentages of the father's. The schedules show the number of pounds of meat, fish, dairy products, fats, eggs, cereals, sugars, fresh and preserved fruits, vegetables, and miscellaneous goods that are indispensable for a family of five for one year. The entire budget consists of 5,962 pounds of food (dry weight) per year, or about 115 pounds per week.[16]

The next item in the Bureau's budget is clothing. Here too, the family requirements are expressed in quantities—in terms of the number of items. Each article of wearing apparel for summer, winter, and year-round use for the husband, wife, and each of the three children is listed for one year. Some garments are expressed in fractions, as they are expected to be worn more than one year. For example, the husband's allowance contains the item of one-quarter of one winter overcoat; that is, the overcoat is to do service for four years. The various allowances for clothing are taken from the budgets of working families, and represent the amounts of clothing actually worn by manual workers' families. Clothing experts assisted in the preparation of the clothing schedule, and when in doubt as to whether an allowance was too generous or too niggardly, the Bureau adopted the smaller amount, preferring, as it said, "to err on the side of conservatism."

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[15] U. S. Department of Labor, *Monthly Labor Review*, June, 1920.

[16] Author's paper in the Proceedings of the *National Conference of Catholic Charities*, 1925, p. 130.

The housing standard adopted by the Bureau as the minimum for health and decency provides for one room per person, exclusive of bath, and approximately 560 square feet of floor space. Inclusive of bath, the standard house has a gross floor space of 660 square feet. Other items in the Bureau's budget include the usual family needs for light; heating; furniture; furnishings; table, kitchen, and laundry utensils; and miscellaneous allowances for medical attention, church and organization dues, insurance, carfare, and personal and household cleansing supplies. All in all, the Bureau's commodity budget does not differ essentially from those of the National Industrial Conference Board, the Philadelphia Bureau of Municipal Research, the National War Labor Board, and the family welfare agencies in Chicago, Cleveland, St. Louis, Milwaukee, and other large cities.

Having considered the *amounts* of goods that are required to satisfy the health and decency needs of a family, the next step is to determine their *costs* in a given locality. This process is comparatively simple. Retail prices are secured in ten grocery-stores, ten meat-markets, and ten dry-goods stores as required for each item in the budget. Prices are obtained from more than one merchant, because of variations in retail prices even in the same section of a city. An average of the different quotations for each item is then struck, and this is multiplied by the number of pounds, or measures, or articles, listed in the budget. Averages are struck also for rents, dentists' and physicians' services, and for each separate allowance. The total cost of the items is the minimum amount necessary to support a family of five in health and decency in its particular locality.

This method of determining the living wage in a given city is admittedly clumsy. The sum arrived at will be at best only an approximation to the amount required to purchase the necessaries and elementary decencies for a family of five. Nevertheless, the method is sound in principle. It is used extensively in labor arbitration proceedings, in the administration of minimum wage laws, and by family relief agencies in drawing up budgets for needy families. In the course of time, the technique will be improved; but whatever improvements are made, the starting point will undoubtedly remain the same, namely, the quantitative needs of a typical worker's family. Thus it follows that the living wage can be stated in figures which are approximately accurate. As science perfects new methods of measurement,—and this is not unlikely,—the margin of error will gradually approach the vanishing point.

Before proceeding, it will be well to summarize what has been said thus far regarding the living wage. First, sound ethics requires the payment of a family living wage to all productive male workers; secondly, public welfare suffers if any considerable part of the community is forced to live on less than an adequate income; thirdly, the national dividend can be increased to the point where all productive workers can be paid a decent family wage; fourthly, it is possible to express the living wage in dollars per year or per week, at least with a close approximation to the true amount.

E. Means of Securing the Living Wage.—The next question is one of practical social planning. How can it be brought about that no able-bodied and industrious man will be obliged to accept a wage less than sufficient to maintain himself and his family at a level of elementary comfort? Manifestly, this question applies only to those wage-earning fathers whose families are living below the plane of decent subsistence. It does not refer to the better paid craftsmen who are receiving $1,500 per year, and upwards. It is the great mass of common laborers whose income ranges from $600 and less, up to $1500 per year that comes into consideration in a discussion of the minimum of wage-justice. This group of workers forms approximately 70 per cent of the total number of wage-recipients in the United States.[17]

At the present time, there are only three ways by which a minimum of wage-justice can be secured for underpaid workers in American industry. They are: (1) Voluntary concessions by employers, (2) Collective bargaining, and (3) State intervention.

1. *Voluntary Concessions by Employers.*—Obviously, the wages of underpaid workers would be increased if employers would increase them voluntarily. What may be expected in this direction? To answer this question, an important distinction must be made between employers acting as individuals and employers acting through organizations. In-

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[17] Douglas, Hitchcock and Atkins, *The Worker in Modern Economic Society*, p. 295.

dividual employers, prompted by humanitarian motives, often raise wages of their own volition. Their number, however, is negligible; and the reasons are not far to seek. Unless an employer produces a commodity that yields a profit somewhat above the competitive average, or unless he occupies a monopolistic position in his field, he can be easily beaten back to pay lower wages, because of the lower labor costs of his competitors. Practically speaking, therefore, the problem cannot be solved through the voluntary action of individuals.

On the other hand, if employers were to unite to correct the evils of low wages, very much could be accomplished through voluntary concessions. This is not purely utopian. The various national associations of manufacturers such as the National Metal Trades Association, or local chambers of commerce could effect widespread wage increases among low-wage receivers through educational campaigns carried on among employer members. Charts showing the wide difference between the living costs and the earnings of common laborers, the percentages of workers who are underpaid in various localities, what firms and industries are underpaying their workers, the wage losses, by trades, through unemployment, and the increased taxes resulting from low wages because of higher sickness and crime rates, might be sent out weekly to employers from centralized statistical bureaus. A campaign of this kind would doubtless arouse employers to act in an organized way to correct the evils of low wages. Nevertheless, there is apparently little hope that an educational program of this kind will be undertaken in the near future, or that employers will unite spontaneously to raise the wages of their underpaid workers. Consequently, it appears to be unnecessary to discuss the improvement of wage rates among low-wage workers through voluntary concessions by employers.

2. *Collective Bargaining.*—Collective bargaining means the negotiation of wages and working conditions, by an employer or association of employers on the one hand, and the authorized representatives of workers on the other. The bargain or agreement thus entered into binds, as a rule, for one year following the date of its negotiation. In some trades the agreement runs for a longer period, for two, three, or even five years. The process of collective bargaining may be best understood by describing an actual case. The newspaper publishers of Chicago and the officials of the Typographical Union meet on June 1, to draw up an agreement as to wage scales, hours of work, and other conditions that will prevail in the composing rooms of Chicago newspapers for one year. The meeting is one of negotiation, or more correctly, one of bargaining.

The publishers' representatives make an offer of \$62 per week; the union asks for \$70 per week. Concessions are made on both sides as to the length of the "shifts," number of apprentices, and arbitration procedure. When the final agreement is reached, the terms are formally enumerated in a contract, which is to run for a period of three years. This contract, or trade agreement, as it is called, is then signed by the Chicago branch of the American Newspaper Publishers' Association and the Chicago Typographical Union. It is then sent to the national officials of the International Typographical Union, at Indianapolis, who underwrite the agreement, and pledge themselves to enforce its provisions in Chicago, even to the extent of supplying Chicago newspapers with printers, should the Chicago printers go on strike. Collective bargaining is carried on substantially in this way in one hundred and five trades in the United States.

Clearly, there is a very great difference between the method of determining the wage scale of a Chicago printer and that of an unorganized worker, such as a steel laborer in Gary, Indiana. In the latter case, the worker bargains personally with an employment manager of the United States Steel Corporation. More accurately, when he accepts employment he is told what the "company is paying," and this becomes his rate of pay. This method of wage determination is called individual bargaining, that is, the worker bargains individually with the employer, instead of collectively through union representatives. Individual bargaining prevails in all the unorganized occupations in the United States.

Among unskilled workers and generally among the lowest income groups, wage rates are determined, not by collective bargaining, but by individual bargaining. At present (1930) only about one-fifth of all American wage-earners, exclusive of agricultural workers, are organized in unions, and the number who are organized (3,903,800) are found for the most part in the skilled and better paid crafts.[18] There is, therefore, practically no collective bargaining among the lowest-wage workers, trade unionism being practically non-existent among them. The absence of organization in this group is due mainly to the following causes: lack of interest on the part of the unskilled in their work, because they see no prospect of getting ahead, and their consequent indifference to labor organizations which would serve to hold them to their present occupations; inability of this group, because of low wages, to pay union dues and help support full-time union officials;

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[18] The President's Conference Committee, *Recent Economic Changes,* Vol. II, p. 492; see also Wolman, *Growth of American Trade Unions,* p. 85.

opposition of large corporations to unionism, as carried on through "open shop" bureaus, "yellow-dog" contracts, espionage systems, card-indexes and "black lists"; and the maintenance by corporations of welfare plans, group insurance, stock ownership, and old age pension systems, which bind the worker to the firm and make him indifferent to trade unionism.[19]

It is not necessary to draw up an exhaustive list of the causes underlying the absence of unionism among low-income workers. It is to be emphasized, however, that the absence of effective unionization is the chief cause of low wages. A noted economist and former president of the American Economic Association, Professor J. H. Hollander of Johns Hopkins University, attributes the low wages of underpaid workers to the bargaining inequality between workers and employers. This, he says, could be removed by union organization. Testifying before the Federal Industrial Relations Commission of 1916, which was created by Congress to discover the causes of industrial unrest, Mr. Hollander said: "Social unrest grows out of the existence of the large class of society with insufficient income. That proceeds from the fact that in the adjustment of wages the workingman is ordinarily in a state of competitive inequality. To correct that, collective action in the form of trade unionism is necessary. To the degree that trade unionism is not possible, positive state action in the form of measures directed against underpayment, unemployment, and unemployableness are the remedies to be devised."[20]

Two general statements are warranted at this point regarding collective bargaining among underpaid workers: First, there is almost a complete absence of collective bargaining between low-wage recipients and their employers; secondly, in view of the active opposition of large employers to collective bargaining, and the administrative difficulties of organizing and financing unions among low-wage workers, there is little hope that in the near future collective bargaining will be introduced on a large scale among them. The proposal, therefore, that the wages of low-wage workers be raised to a proper living level through joint negotiation must be set aside as impracticable.

If it be asked whether the method of raising the wages of the underpaid through collective bargaining between organized workers and organized employers is to be preferred to state intervention, the answer is that from the point of view of society, collective bargaining is far more desirable. In Chapter XII, on the functions of the state, it was seen that public welfare is served best by allowing private activity the widest possible margin of freedom consistent with the freedom of all for development and opportunity. If, however, private activity is used to oppress, and to restrict opportunity unduly, public welfare demands that the state intervene and curb private activity. This set of conditions is verified in the case of underpaid workers. Private initiative, or freedom of contract, now prevails between employers and low-income workers, and is the cause of the low wages the workers receive. In consequence, a large percentage of workers and their families are denied the opportunity to live and to develop as normal human beings. This condition could conceivably be corrected through private action, without governmental intervention: namely, if wage-earners were granted the right to bargain collectively with their employers. This right, however, is denied by the refusal of employers to meet their employees through elected representatives, and by the maintenance of permanent bureaus to combat the growth of organization. Inasmuch as the private means of collective bargaining is denied to workers, the state is warranted, and, moreover, is obliged to intervene for their protection.

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[19] Fitch, *The Causes of Industrial Unrest*, Chaps. IX and X; Bonnett, *Employers' Associations in the United States*, pp. 79–80, 112, 117, 132.

[20] Industrial Relations, *Final Report and Testimony*, Vol. VIII, p. 7543.

3. *State Intervention.*—By state intervention in the wage contract is meant the passage of a law that will prohibit an employer from paying a wage less than sufficient to support a worker and his family in reasonable comfort. A law of this kind is commonly known as a minimum wage law, because it fixes a minimum, or lowest sum, that may be paid to a productive worker. What the state does in effect is to fix the lowest price at which a person's labor may be bought. The law, of course, leaves the employer free to pay any amount that he chooses over and above the legal minimum.

The use of governmental power to raise the wages of underpaid workers is a justifiable form of social control. The two non-governmental proposals of securing wage-justice, namely, voluntary concessions of employers and collective bargaining, are of no practical efficacy, in view of the past and present attitude of large employers. Therefore the state is obliged to intervene. This conclusion is merely an application of the principle that has been applied to various problems in preceding chapters: Private action is always preferable to governmental activity in correcting social wrongs; but when private action is inadequate or fails to correct them, and particularly when it is used to prevent their correction, the state is obliged to act, so that all may have an opportunity for a reasonable living. It is on these grounds that the state is obliged to intervene in behalf of underpaid workers by enacting a minimum wage law. This conclusion will be discussed at length in the following section.

II. GOVERNMENTAL REGULATION OF WAGES

A. The State and Price Fixing.—When the state fixes minimum wages, it fixes the price of only one of the many factors in the cost of goods, that is, human labor. Far more comprehensive powers of price control were exercised by the United States Government during and immediately after the World War. In fact, at that time the prices of food, clothing, housing, labor, and all the important commodities of life were fixed by governmental authority. The experience with this broad program of price-control during war times illustrates the principle involved in fixing a minimum price for labor during peace times. Both in war and in peace the chief concern of a government is public welfare. During the World War the United States Government adopted vigorous measures to protect the interests of the public. Thus it created several commissions, with far-reaching powers,—among them, the United States Food Administration.[21] Owing to war speculation and the difficult problems of rapid production and distribution, prices had risen to abnormally high levels by the summer of 1917.[22] To meet this emergency the Food Administration was given control over the prices of practically every staple food commodity.[23]

Rent charges for housing accommodations also rose to excessive heights in many cities during and after the World War. Rent commissions were set up in various localities, notably in the District of Columbia by an Act of Congress in October, 1919. The constitutionality of these laws was attacked, but the United States Supreme Court on April 18, 1921, decided that the shortage of housing facilities in the city of Washington justified the regulation of rents by Congress. The Court said: "The space in Washington is necessarily monopolized in comparatively few hands, and letting portions of it is as much a business as any other. Housing is a necessary of life. All the elements of a public interest justifying some degree of public control are present."[24] This decision, it is to be noted, was rendered more than two years after the signing of the Armistice.

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[21] Garrett, *Government Control over Prices,* War Trade Board, Government Printing Office, p. 40.

[22] *Op. cit.*, p. 29.

[23] *Op. cit.*, p. 40.

[24] Block vs. Hirsh, 256 U. S. 135.

It was also found necessary during the World War to establish wage levels, below which specified classes of workers in industry might not be hired. The task of regulating wages was entrusted to the National War Labor Board. The Board declared that it would be guided by the principle that no wage rate would be ordered which was insufficient to purchase the minimum of health and comfort for a worker and his family. The Board announced: "The right of all workers, including common laborers, to a living wage is hereby declared. In fixing wages, minimum rates of pay shall be established which will insure the subsistence of the worker and his family in health and reasonable comfort."[25] In applying this principle, the Board found it necessary to take into account many factors, chiefly differences in living costs in various cities. Thus the cost of food and rents is generally lower in the Southern cities than in the Northern, and in the small towns throughout the country than in the large cities. Such differences prompted the Board to establish various minimum scales. For example, thirty-eight cents per hour was set as the minimum for common laborers in a steel plant in Birmingham, Alabama, and forty-two cents per hour for the same class of laborers in a cork and seal plant in Baltimore.[26]

The foregoing examples of governmental control of prices will suffice to illustrate the principle that unusual conditions may compel the government to regulate prices in order to protect the public interest. It is to be admitted that the same elaborate scheme of price-control which is practised during war times would probably not operate to the public interest in times of peace. In war times it becomes necessary for the government to make drastic use of its "police powers" at home, in order to protect the civilian population. Such curtailment of personal freedom would probably not be wise during peace times, as it would unduly hamper enterprise and initiative, and expose public officials to strong temptations of dishonesty and corruption.

On the other hand, there is an important difference between the price-control which was practised during the War, nad that proposed for the regulation of the price of unskilled labor during normal times. The former embraced the control of the prices of all the important commodities of life, together with the price of labor. The latter seeks to fix a minimum price for unskilled labor alone. Such regulation is entirely justified as a permanent peace-time policy. The evil of low wages together with the social evils inherent in it, promises to continue indefinitely in the future. The ultimate purpose of wage regulation is no different from that which impels the various States to pass usury laws, forbidding lenders to exact more than the established maximum rate of interest; or which impels a State to regulate the insurance rates of private insurance companies.[27] The final purpose of all such regulatory acts is to protect the weaker party to a contract, who, because of his necessitous condition, can easily be made the victim of injustice.

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[25] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 287, p. 94.
[26] *Op. cit.*, p. 102.

This section may be summarized by saying that inasmuch as the evil of inadequate wages prevails throughout a large section of the industrial population, and no plan except state intervention offers any promise of bringing their wages up to a decent level of subsistence, the state is justified, and is only fulfilling its duty, in enforcing the payment of a living wage.

B. Definition of a Minimum Wage Law.—A minimum wage law is one that prohibits the payment of less than a fixed amount of wages to a specified group of workers. The wage that is set as the minimum, that is, the amount below which an employer may not engage a worker, is the sum of money that the legislature regards as necessary to provide the most urgent needs of life. Minimum wage laws are of two kinds: the ''flat-rate'' law, and the ''wage-board'' law. The ''flat-rate'' specifies in the statute itself, the lowest amount that may be paid to any worker of a given class. Thus the Arizona law of 1917, prohibited an employer from paying a woman worker less than ten dollars per week. The ''flat-rate'' type of law, however, has been rare. The ''wage-board'' law is more common. It creates a commission, usually composed of an equal number of representatives of employers, workers, and the public. This commission has power to fix the minimum wage for each specified trade, and to compel its payment. With the exception of the Massachusetts law, which depends on public opinion for its observance, the laws of all the States contain provisions for the legal enforcement of established rates.[28]

C. History of Minimum Wage Legislation.—The first minimum wage law was passed in Victoria, one of the States of Australia, in 1896. Public sentiment had been aroused in favor of the measure through the activities of the Anti-Sweating League. Temporary wage boards were created, which were empowered to set minimum rates for men and women workers in the six most ''sweated'' trades. After eight years of experimentation, the law made the wage boards permanent, and extended their jurisdiction to other trades. At the present time, minimum rates are established by law for all the important manufacturing occupations in cities, and even for certain types of agricultural work. The success of the experiments in Victoria prompted the other States of South Australia, Queensland, New South Wales, and Tasmania to enact similar legislation from 1900 to 1910. In 1909, Great Britain passed the Trade Boards Act, and set up wage boards patterned after those of Victoria. By subsequent legislation the powers of the wage boards were enlarged, so that now minimum rates are set for men and women, even in some of the skilled occupations such as mining. Other foreign countries now having minimum wage laws for certain groups of low-paid workers are France, Norway, Argentina, Germany, Spain, Switzerland, Austria, Czechoslovakia, Uruguay, and several Provinces of Canada.[29]

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[27] German Alliance Insurance Co. vs. Kansas, 233 U. S. 389, quoted by Mr. Justice Holmes in his dissenting opinion in the District of Columbia Minimum Wage Case, Adkins et al. vs. Children's Hospital, 261 U. S. 525.

[28] U. S. Department of Labor, *Monthly Labor Review*, November, 1929, pp. 29–40.

The first minimum wage law in the United States was passed by Massachusetts in 1912. Since that time fourteen States and the District of Columbia have enacted similar legislation. Non-compliance subjects the employer to fine or imprisonment, under all the existing laws except that of Massachusetts. In Massachusetts the power of public opinion is invoked to secure enforcement. The names of employers failing to pay the legal minimum may be published by the Commission in local newspapers. This device has proved effective, particularly for retail stores, which depend on public good will. But the number of violations in all industries is negligible, perhaps not exceeding 4 per cent.[30]

It is important to point out that the laws in the United States affect women and minor workers only. None of them applies to adult men workers. By way of exception, several States have laws, and many large cities have local ordinances, which require contractors engaged on public work to pay their men employees a minimum wage. But the number of workers thus affected is comparatively small. With these exceptions there are no minimum wage laws for men in the United States. The courts make the distinction between men and women workers because they feel that the special reason for regulating the wage rates of women workers does not apply to men. Women are the actual or potential mothers of the coming generation, and the race itself must suffer if legal measures are not employed to protect the physical and moral well-being of women.

The Courts of the various States have upheld minimum wage legislation on the basis of the doctrine enunciated by the United States Supreme Court in the Oregon ten-hour law for women. In upholding this law the Supreme Court declared that woman's "physical structure and a proper discharge of her maternal functions—having in view not merely her own health, but the well-being of the race—justify legislation to protect her from the greed as well as the passion of man."[31] This conception of the need of special protection for women workers because of the necessity of protecting the future mothers of the country, has provided a basis for the enactment of the fifteen minimum wage laws, passed in the United States since 1912.

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[29] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 467; for an account of the movement in England and France, see Pipkin, *The Idea of Social Justice.*

[30] Lucas, *American Economic Review,* March, 1924.

The minimum wage movement in the United States suffered a temporary setback through the adverse decision of the U. S. Supreme Court on April 9, 1923, when the Court declared the minimum wage law of the District of Columbia unconstitutional. The grounds for this decision were that the law interfered unduly with the freedom of contract of women workers, especially since women had attained political equality with men through the ratification of the Woman Suffrage Amendment, in August, 1920. This decision, however, was rendered by a five to three vote of the Court, and is probably not in accord with popular opinion as regards the need of minimum wage laws for women. If necessary, an amendment should be added to the Federal Constitution, enabling Congress and the individual States to enact such legislation.

D. Arguments for a Minimum Wage Law for Men.—Aside from the question of the legal obstacles in the way of further extension of minimum wage laws, it may be asked whether such laws should be enacted to protect low-wage men workers as well as low-wage women workers. This question may be answered best by examining the arguments for and against minimum wage laws for men. The principal arguments for the law may be reduced to the following.

1. *Argument from Individual Welfare.*—The "cheap laborer," like his skilled brother, is a human person, and as such has a right to full physical and moral development. But his physical and moral development is hindered, if not completely thwarted, when he is compelled to accept less than a living wage. Inasmuch as there are no fewer than eight million male bread-winners in the United States who are in this condition, and as there is no hope of securing a minimum of justice for them through private action, the State is obliged to protect them from exploitation by enacting a minimum wage law. It is only in this way that their natural right to life and normal development can be secured.

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[31] Muller vs. Oregon, 208 U. S. 412, 28 Sup. ct.

It is not pertinent to say that an employer who retains a "cheap laborer" in his employ is relieving the latter's distress or need, to the extent that he pays him some wage, however low. Even in this instance the employer is not dispensing charity. His reason for keeping the employee at work, except in unusual cases, is that the employee is necessary for the conduct of the business; otherwise he would not be kept on the payroll. Finally, there is always, even in normal times, a surplus of common laborers, and those who succeed in holding their jobs, are considered by employers as necessary for the operation of their business. Those who are employed, therefore, should be protected legally against the necessity of accepting less than a minimum wage.

2. *Argument from Public Welfare.*—Public welfare prevails in a community when every one has at least the opportunity to secure the means of normal human development. When such opportunity is closed to a large section of bread-winners, public welfare suffers, and the State is obliged to intervene and remove the causes that create this condition. If on no other grounds, the State must intervene out of motives of self-interest. It is a menace to a city to have within its limits entire areas which are breeding grounds for sickness, crime, and anti-social conduct. The rate of sickness, and the number of personal and property crimes are much higher in low-wage districts than in districts where proper living standards prevail. Viewed merely from the standpoint of tax costs, it is far more economical to finance wage boards, which will enforce minimum wage levels among low-wage workers, than to pay out large sums for the care of the poor, the repression of crime, and the imprisonment of criminals. The interests of the community are better served, therefore, by the passage of minimum wage laws, than by pursuing a policy of individualistic "let alone," or *laissez-faire.*

3. *Argument based on Employers' Welfare.*—The minimum wage law draws a line below which wages may not fall. It permits the freest bidding among workers above this line, but prohibits all bidding below it. By passing a law of this kind, a State stamps out the unfair competition of unscrupulous employers who can sell their products below their competitors because of cheaper labor costs. The elimination of "cut-throat" competition serves to protect the enlightened and conscientious employer.

4. *Argument based on Industrial Efficiency.*—Increased efficiency also results from the payment of proper wages. This was recognized in 1918, by the Merchants' and Manufacturers' Association of the District of Columbia, when Congress was making preparations to pass a minimum

wage law for the District. Instead of opposing the passage of the law, the Association took official action in its favor. The Secretary of the Association appeared at the hearings on the proposed law and testified as to the advantages of the law to employers. The Congressional Committee, commenting on this action of the employers, reported to the House: "Their approval means that such legislation is recognized as being based on sound business principles, because it makes for a more efficient and more contented labor force. It also protects the fair and enlightened employer from underbidding competitors."[32] While the law just referred to applied to women workers only, the same underlying principles apply to men. A plant cannot operate at maximum efficiency if the workers are underfed, improperly housed, and dissatisfied. From the standpoint of output and profit, therefore, it is to the interest of industrial and business establishments to pay their workers a wage sufficient to maintain health and reasonable comfort. By establishing this minimum standard legally, industrial, as well as individual and public, welfare is promoted.[33]

E. Arguments against a Minimum Wage Law for Men.—1. *The Minimum Tends to Become the Maximum.*—The objection most frequently urged against a minimum wage law for men workers is that the law is really a hindrance rather than a help to low-wage earners. This objection is usually put as follows: the level of wages established by a wage board comes ultimately to be the highest wages that are actually paid to workers. As the board sets an artificial level, which is higher than the competitive level, gradually the less efficient are eliminated and only those are kept at work who can command the wage established by the board. The result is that many of the less productive workers are kept out of employment. Hence the law is injurious to the very class of workers that it is designed to help, and the maintenance of the board is a waste of public money.

2. *Difficulties of Administration.*—It is difficult, if not impossible, to administer the law. This objection may be stated as follows: The essential weakness of the law is that sub-standard workers, that is, those who are less robust or who are past middle age, are unable to get work at the minimum wage. If the wage board makes exceptions for these men and issues them permits to work at less than the minimum, a large number of permits will have to be issued, and the effectiveness of the

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[32] U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 285, p. 15.

[33] Supreme Court of the United States, Brief for Appellants, *District of Columbia, Minimum Wage Cases,* Vol. I, pp. 440–471.

law will be thereby destroyed. Consequently, the law is not a practical remedy for the evil of low wages.

3. *Trade-Union Objections.*—The law makes workers too dependent on the state. This objection is usually made by trade-union officials, who see in the law a governmental usurpation of one of the social functions of the trade union. The argument of trade unionists runs as follows. The state attempts to do for workers what workers through organization should do for themselves. Although state intervention may be an immediate remedy for improving the lot of the poorly paid, the final effect on the worker is essentially harmful. State intervention softens the worker's will and makes him indifferent about helping himself. He comes to look to the state for his needs instead of relying on his own resources. Again, he becomes reluctant to pay union dues, because he gets nearly the same immediate results from the law as he would get from a union, and the law costs him nothing. As a result, the union loses prestige and strength. With the breakdown of union organization, the power of the strike is abolished, and this is the important reserve weapon for the protection of workers. They must then rely on the judgment of wage boards, which may or may not be disposed to mete out justice. In a word, wages should be set by the free negotiation of organized employers and organized employees, and the state should limit itself to removing the legal obstacles to union activities. It should, for example, abolish the labor injunction, rather than set a minimum wage for underpaid workers.

4. *Legal Obstacles.*—The law is not constitutional. It is useless, the objection runs, to speak of a minimum wage law for men workers at the present time, because the legal theory on which it rests, was rejected as unconstitutional by the United States Supreme Court when it invalidated the District of Columbia wage law for women on April 9, 1923. By virtue of this decision, all of the minimum wage laws for women in the United States are practically non-existent. A Federal Court has already declared the Wisconsin law unconstitutional (1924); hence it remains only to contest the other laws, and they will automatically become inoperative. It is useless, therefore, to urge such laws for men workers, as the reasoning used against the law for women and minors will be employed against laws for men.

F. Estimate of Arguments for and against a Minimum Wage Law for Men.—After the arguments for and against a minimum wage law for men have been weighed, it is clear that there is great need of legislation of this kind. The arguments for the law are based on a positive principle of social policy; whereas, the arguments against it are negative in character, and lack solid foundation. The principle of social policy requiring the passage of the law, may be stated as follows: If a fairly widespread social evil exists, and there is nothing short of governmental intervention to correct the evil, the state is obliged to intervene in the interests of public welfare. In the wage problem both of these conditions are present. In the first place, the evil is of considerable dimensions, because at least one-third of the men workers in the United States are not receiving an adequate family wage, as required by health and decency. Secondly, private activity is unable to cope with the evil. It was shown above that there is no prospect of voluntary concessions by employers, and very little likelihood of organizing the low-wage groups into effective unions for collective bargaining. Consequently, the state is obliged to intervene to correct the evil of low wages.

The objections against the law will now be considered in the order just proposed.

1. The objection that the minimum wage tends to become the maximum, and hence the law is of no benefit to low-income workers, was made more frequently during the early period of experimentation with wage legislation from 1913 to 1915, than it is made at present. During the past ten years, however, a considerable body of data has been accumulated by which this objection can be tested. The industrial commissions of the various States in which minimum wage laws are in force, have kept careful records of their work, and a study of these records shows that the minimum wage does not become the maximum. The Industrial Welfare Commission of California reports that in 1922, with a minimum wage order of $16 per week for women and minors in the mercantile, manufacturing, and cleaning industries, 55 per cent of those employed received more than $17 per week; and in 1923, with the same minimum, 59 per cent received over $17 per week. The number receiving over $17 per week, increased each year, up to 65 per cent in 1927.[34] The Wisconsin Industrial Commission reports: "Since the minimum wage law of Wisconsin went into effect (in 1913) studies of wages of minors and women employed in Wisconsin industry give no support at all to the claim that the minimum wage tends to become the maximum wage." [35] The objection, therefore, that the minimum wage is injurious to the interests of the low-income worker, because it sets an

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[34] Sixth Report, 1926–1928, p. 13.

[35] Bulletin, May, 1923.

artificial level which tends to become the maximum, is not borne out by actual experience. On the contrary, all the available data show that the opposite tendency obtains.

2. The technical difficulties involved in the administration of the law are not to be passed over lightly. Wage commissions have experienced problems with middle-aged women workers and the mentally and physically handicapped.[36] Usually such workers are granted permits to work at rates below the minimum,—a practice which tends to make the enforcement of the law difficult. Nevertheless, the problem of sub-standard workers has not proved insoluble, nor has it been of such an extent as to nullify the effects of the law. Some of the States, for example, Colorado, Minnesota, and Texas, forbid establishments to employ sub-standard workers in excess of 10 per cent of the total working force. Other States, like California and Wisconsin, authorize the industrial commission to issue licenses. The difficulties of administration, therefore, while perplexing at times, do not make regulation impossible. As new experience is gained, new methods will be devised, and frictions and hardships minimized accordingly. The objection from the standpoint of administration, therefore, does not constitute a valid argument against the law.

3. The objection of trade-union leaders may, or may not, be well founded. If organization among low-wage workers progresses rapidly within the next few years, union opposition is reasonable, and rests on solid grounds of social policy. If, on the other hand, organization progresses as slowly in the future as it has progressed in the past, union opposition is not well founded. The latter seems to be the more probable development, as the obstacles in the way of organizing common laborers are practically insurmountable. It would seem, therefore, that the trade-union objection is not socially sound.

4. The legal obstacles to minimum wage legislation are a genuine hindrance to its further progress. In view of the adverse decision of the United States Supreme Court on April 9, 1923, it is difficult to see how either individual States or the Federal Congress can enact minimum wage laws for men.[37] If a law were to be passed by any of the States, it would undoubtedly be contested at once, and declared unconstitutional. Nevertheless, if public opinion demands the enactment of a minimum wage law, a remedy can be provided by adding an amendment

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[36] U. S. Department of Labor, *Monthly Labor Review*, March, 1921.

[37] See opinions of legal authorities on this decision in *The Supreme Court and Minimum Wage Legislation*, compiled by the National Consumers' League, 1925.

to the Federal Constitution. As will be explained presently, an amendment of this kind would specifically empower both Congress and the individual State Legislatures to enact minimum wage laws for the protection of men workers.

It should not be inferred that the theory on which a minimum wage law is based, is opposed to the great body of court decisions of the past twenty years. On the contrary, a minimum wage law is entirely in harmony with numerous labor decisions, especially those upholding maximum hour laws in the various States. In effect, there is no difference between a maximum hour law and a minimum wage law. The economist observes correctly that there are two forms of competition in the wage contract: first, the competition that centers around wages; and secondly, the competition that centers around the length of the working day. Workers can compete among themselves, and lower their living standards, not only by offering to work for lower wages, but also by offering to work longer hours. Even when the same wage is paid all the workers in a shop, competition of a very real kind exists, if some consent to work longer hours than do others. In a word, competition as to hours and competition as to wages are merely two phases of the same process.

The close interrelation of wages and hours may be illustrated in the case of three workers, A, B, and C, who work a varying number of hours for the identical weekly wage.

A works 48 hours per week @ $.50 per hour and receives $24.00
B “ 60 “ “ “ “ $.40 “ “ “ “ $24.00
C “ 80 “ “ “ “ $.30 “ “ “ “ $24.00

The three men, A, B, and C, receive the same weekly wage of $24.00. But the working periods of the three are vastly different. B works twelve hours more than A, and receives $24.00; and C works twenty-two hours more than A, and receives the same amount. At the rate of fifty cents per hour B's additional twelve hours are worth six dollars to the employer; and C's additional thirty-two hours are worth sixteen dollars to the employer. These men are therefore competing with one another very effectively, though not from the standpoint of the amount of money they receive, which is the same for the three workers. B and C are competing with A, however, from the standpoint of the amount of money they relinquish by consenting to work longer hours.

This simple illustration clarifies the above statement that competition as to hours and competition as to wages are merely two phases of the same process. Chief Justice Taft stressed this fact in his dissenting opinion in the District of Columbia case, April 9, 1923. After citing several decisions in which the Court had upheld the constitutionality of maximum hour laws, he declared that the theory on which these laws rest is entirely applicable to minimum wage laws. He said: "In absolute freedom of contract the one term [wages] is as important as the other [hours], for both enter equally into the consideration given and received, a restriction as to one is not any greater in essence than the other, and is of the same kind. One is the multiplier and the other the multiplicand. . . . I do not feel, therefore, that either on the basis of reason, experience or authority, the boundary of the police power should be drawn to include maximum hours and exclude a minimum wage." Mr. Taft therefore insists that there is no real difference between competition as to wages and competition as to hours, and hence the state may regulate the former as well as the latter.

G. Conclusions and Proposals.—Any thoroughgoing minimum wage law in the United States must take into account certain social and industrial facts of American economic life. In the first place, the United States, though more extended geographically, is far more compact socially, than it was when the Constitution went into effect in 1789. At that time, travel and communication were slow and difficult, and there was comparatively little shipping of goods from place to place. There was good reason apparently for each State to have its own separate government, because, for all practical purposes, the States were at a great distance from one another. But all this has changed. The railroads, telegraph, radio, and air-service have knit the States together socially and industrially in a way that the framers of the Constitution could not possibly have foreseen. The result has been that so far as buying and selling goods is concerned, State lines have been abolished. State boundaries are no longer economic boundaries. It makes no difference to the residents of Massachusetts whether the meat and grain products which they consume come from North Dakota or Minnesota; similarly, it makes no difference to the residents of North Dakota or Minnesota whether the shoes they purchase come from Massachusetts or Missouri. The consumers of meat, bread, shoes, and other commodities, in whatever State they live, are interested primarily in the quality and cheapness of the goods they buy, and never, except as a matter of curiosity, give a thought to the State from which their living supplies come.

These two facts, namely, that the country has become more compact, and that State boundaries are in no true sense economic boundaries, mark out the lines on which minimum wage legislation must be projected. The most fundamental requisite of any adequate legislation, both as to wages and working conditions, is that the legislation be national, and not merely State-wide in scope. This requisite can be given practical effect only if an amendment is added to the Federal Constitution, which will permit the passage of laws setting minimum standards in the United States. The amendment would consist of two sections: one empowering Congress to create a national wage board which would set a minimum wage and a maximum hour week, to be observed uniformly throughout the United States; the other, empowering the individual States to establish minimum wage boards in their respective jurisdictions, which might set a minimum wage at five, eight, or ten cents per hour above the national minimum, but at no time below it. The State boards would be empowered also to establish a shorter working week than that set by the national board, but in no case a longer one. The national minimum wage rate would of necessity be somewhat low, and the maximum hour standard somewhat high, because of the divergence in living costs between sections of the country, especially between the Southern and Northern States. After the national minimum wage has been established, each State will create a board having power to set a minimum above the national rate, as well as a maximum below the national standard of hours. The individual State legislature can, if it sees fit, refrain from setting up a wage board for its own jurisdiction. In this case, the industries of the State will be governed by the Federal law.

This proposal is perhaps not likely to be embodied in American legislation for some time to come. Numerous obstacles stand in the way of its adoption. First, a constitutional amendment requires a long time for passage and ratification. Again, the powerful financial and manufacturing interests of the country would doubtless oppose the passage of the amendment, as they did the passage of the Child Labor Amendment of 1924. Nevertheless, the plan just outlined is the only measure proposed thus far that squarely meets the economic realities of the nation. Until public opinion is aroused to the need of effective legislation, the workings of the existing laws must be observed and their effects carefully tabulated. This body of experience will be valuable when the public is prepared to support a demand for the necessary legislation.

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QUESTIONS FOR REVIEW

1. Define wages. Wage contract.

2. From the data given in the text, what is the range of wages paid to laborers?

3. What are the best sources of data on the subject of wages in the United States?

4. What are the causes of low wages?

5. Define the term "living wage."

6. Providing they are equally efficient, should an unmarried man receive the same wage as a married man?

7. Discuss the family allowance system of wages. (See U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 401, *Family Allowances in Foreign Countries,* and Douglas, *Wages and the Family.*)

8. What is the ethical basis for the right of a worker to a living wage?

9. Name the principal objections to the payment of a living wage.

10. Is the national income large enough to insure a living wage to all workers?

11. What is the "high wage theory of prosperity"?

12. Would doubling the wages of workers double the price of the goods they produce?

13. Which of the following factors of production has a prior right to compensation: land, labor, capital, or business ability?

14. Is it possible to determine what a living wage is?

15. What are the elements that go to make up the cost of living?

16. How can the amount necessary for a living wage be determined?

17. Secure a family-budget schedule from a local relief agency, and fill in the amounts for a dependent family of five. Is the total more, or is it less, than the average income of unskilled workers in your community?

18. What effective means can be employed to secure living wages for workers?

19. What is collective bargaining?

20. What is the justification for state intervention in fixing wages?

21. What methods are employed by trade unions to improve the living standards of their members?

22. How could unskilled workers be organized into unions?

23. What are the limits of state intervention in securing a living wage for workers?

24. Explain the term "minimum wage."

25. In effect, is their any difference between a minimum wage and a maximum hour law?

26. How extensively are minimum wages fixed by law?

27. What has been the experience of the States of the United States with minimum wage laws for women?

28. Give the arguments for the fixing of minimum wages for men.

29. How does the payment of living wages benefit employers?

30. Give the arguments against fixing a legal minimum wage for men.

31. What can an industry do if it cannot afford to pay living wages?

32. What conclusions can be drawn from the arguments for and against fixing minimum wages for men by law?

33. What would be the principal difficulties in administering a minimum wage law for men?

34. Why is it difficult for a state to enforce minimum wage laws?

CHAPTER XVI

The Problems of the Farm

I. THE GROWTH OF CITIES

A. Cityward Movement in Industrial Nations—B. Two Causes of City Growth

II. AGRICULTURE AND NATIONAL WELFARE

A. Industrialization of World Powers—B. Economic versus Natural Laws—C. Agriculture and Social Welfare

III. STABILIZING THE FARM POPULATION

A. Farm Isolation—B. Weak Economic Position of Farmers—C. Causes of Low Incomes of Farmers—D. Coöperation

IV. GOVERNMENTAL OBLIGATIONS TO AGRICULTURE

A. Governmental Assistance to Agriculture—B. Two Governmental Policies Calling for Revision—C. Promoting Coöperative Associations—D. Governmental Obligations to Agriculture Summarized

V. GENERAL SUMMARY

No social problem leaps into being in a day or a year. It is the combined product of numerous forces operating over a long period of time. Each of the major social problems such as poverty, crime, immigration, and urban congestion has a long history, and must be studied in its historical background, if intelligent plans are to be made for its solution. This applies with special force to the social problems of the farm. It will be necessary, therefore, to begin this chapter with a survey of the main tendencies which have appeared in farm life during the past century. The task can be simplified by viewing these tendencies from the standpoint of the redistribution of the population.

This chapter is divided into five sections. Section I will describe population movements and the growth of cities. Section II will examine the dependence of national welfare on rural welfare. Section III will show how the American farm population is rapidly decreasing because of economic and social conditions, and how it can be stabilized. Section IV will outline briefly the measures which governments must apply to agriculture in order to safeguard national and international well-being. Section V will present a brief summary.

I. THE GROWTH OF CITIES

A. Cityward Movement in Industrial Nations.—It will be sufficient for the present purpose to examine the two main population trends of the past hundred years. What is said in this connection applies primarily to the industrial nations of the world, the United States, Great Britain, France, Germany; and, to a lesser degree, to the non-industrial nations. The two main trends discernible in the world population in the nineteenth century are, first, a marked increase in population since 1800 and, secondly, a marked tendency for peoples to live in cities instead of on farms.

In 1800, the population of the world was about 850 millions; in 1900, it was about 1,700 millions. Thus the increase during the last century alone equaled the increase of all the centuries preceding it. Moreover, throughout the past century, and up to the present time, the peoples of the various nations have shown a marked tendency to live in cities. In fact, the large city is a distinct product of the nineteenth century. At present there are nearly forty cities in the world with a population of over one million, whereas, a hundred years ago, barring the congested districts of China, there were not more than three.[1] Furthermore, the cities of Europe which were fairly populous in 1800, showed large increases during the past century. The population of Greater London is now seven and one-half millions, that of Berlin, over four millions, and that of Paris, three millions.[2] The rate of growth in these cities has been very rapid. London and Berlin increased tenfold, and Paris sixfold, from 1800 to 1900. Even greater increases per decade have taken place since 1900.

Especially relevant, here, is the fact that the populations of whole nations have been redistributed in a relatively short time. In the industrial nations of the world there has been a continuous movement of people from farms to cities. Approximately seven-eighths of the English people live in towns and cities, and only one-eighth are active agriculturalists. It might be added that practically all English farmers are tenants. Nearly two-thirds of the German people are urban dwellers, and the remainder are on farms or in small villages.[3] The United States, which began as an agricultural nation when the Federal Constitution went into effect, has shown the same clear tendency toward urbanization.[4] When the first American Census was taken in 1790, 4 per cent of the population lived in cities of 8,000 or over, whereas in 1920, 44 per cent lived in cities of this size.[5] Since 1800, the average rate of urban increase has been 59 per cent, while the average rate of rural increase has been 24.5 per cent, or considerably less than one-half that of the urban increase. The urban increase has been especially marked in New England, where industry first took root. Here four-fifths of the people are now living in cities.[6]

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[1] Fawcett, *Sociological Review*, Vol. XIV, April, 1922.

[2] *Whitaker's Almanac*, 1929, p. 89.

In considering the division of a country's population into urban and rural dwellers, this basic fact must be kept in mind: People migrate from one place to another in order to secure the needs of life more than for any other single reason. The desire for greater physical comforts and social satisfactions is, of course, the controlling motive in many instances. In living habits, civilized peoples do not differ essentially from savage tribes, which migrate from one district to another in search of more fertile lands for cultivation or richer grazing pastures for their herds. Both civilized and savage men leave the place where a living is not to be had, or to be had only with exhausting labor, and go to the place where they hope to obtain a living, or a better living, with less expenditure of energy. This central fact must not be overlooked in evaluating the economic and social causes that have been at work, moving the populations of civilized nations from farms to the cities since the beginning of the Industrial Revolution in 1770. Foremost among these causes has been the perfection of machinery. The influence of machinery on city growth, together with other contributing causes, will now be described.

B. Two Causes of City Growth.—With the above facts in mind, it can be said that the causes of the general migration of people from farms to cities have been of a twofold character: (1) economic and (2) social.

1. Chief among the economic causes is the invention of power machinery. Machinery has stimulated city expansion in two ways. It has

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[3] League of Nations, *Agricultural Problems in their International Aspect*, 1926, p. 412.

[4] McKee, *Population Trends*, in *American Academy of Political and Social Science*, Vol. CXLII, pp. 44–50; Stewart, *Movements to and from Farms*, *ibid.*, pp. 51–57.

[5] U. S. Department of Commerce, *Census Monograph VI*, p. 24.

[6] U. S. Department of Commerce, *op. cit.*, p. 179.

operated in the city itself by attracting people from the farms. It has operated on the farm by moving the surplus labor of the farm into the city. First, it has drawn individuals and families to the city from the farms. This is due to the fact that the mechanized mills and factories of the city needed workers to operate them. It should be added that machinery has also played an important rôle in drawing newly arrived immigrants into the city. Since 1860, immigrant men and women have settled in the industrial centers of Philadelphia, Chicago, and Detroit after their arrival in New York. They could readily find work at unskilled machine operations in the large cities, but could not take up farming, because farming required capital for the purchase of land and farm equipment, and the immigrants, as a rule, were poor.

In the second place, the invention of farm machinery has aided very materially in sending boys and girls from their farm homes to cities, in search of a living. The increased use of farm machinery and labor-saving devices has left them without work at home, and they have gone to towns and cities to find gainful employment. This phase of the question is illustrated in the case of a successful educator who was raised on a farm. He said:

> I had nine brothers, and before the first farm machine was introduced into our neighborhood, there was plenty of work on the little farm for all of us. But whenever my father bought a new piece of machinery, he also bought a new piece of land. I remember when he brought home the first binder. He said: 'Now we must buy another forty acres to keep us busy.' It was the same later on with the mower and the sulky cultivator. More machinery, more land. But even with all the new land there was not enough to do for all of us, and, one after the other, we left until my father was alone with only one of the boys to run the farm.

In the case of this family, additional land was the outlet for the surplus labor of the growing sons. But even this failed as a permanent solution, and the sons left for the city. There have been thousands of families who have been unable to buy additional land in order to provide employment for their sons and daughters. Thus it is easy to understand how farm machinery has played so important a part in moving the farm population into towns and cities.

The National Industrial Conference Board has attempted to estimate the effect of farm machinery on farm emigration. According to the Board's report the amount of machinery on farms has increased nearly tenfold per farm worker since 1850, and about eighteen million persons otherwise necessary for present farm production have been released for other occupations.[7] The displacement of hand production by machinery has been especially marked in the grain States, because of the invention of the twine binder.[8] In the harvesting of wheat, oats, barley, rye, and corn, machinery has effected a saving in manual labor of approximately fifty per cent from 1850 to 1900.[9]

The increased output of agricultural products generally from 1899 to 1927, was about 60 per cent per worker. This increase is due mainly to the increased use of farm machinery.[10] Professor Hibbard uses the plow to illustrate the saving of labor by machinery. In pioneer days, an ox plow and two men plowed from one to two acres a day. A four-horse gang plow driven by one man now plows five acres; and a tractor-plow can plow as high as forty acres a day. From 1918 to 1929 the number of horses and mules on farms decreased nearly one-fourth, whereas the number of tractors increased more than tenfold.[11]

But this is not all. Many food products formerly prepared by hand on the farm are now manufactured with the aid of machinery in cities. Chief among these products are milled flour, butter and cheese, and farm implements. The extent of this change may be gauged by remembering that nearly a third of all the persons working for wages in towns and cities are employed in industries which directly or indirectly prepare food for consumption. These industries include those manufacturing farm machinery, fertilizers, and other production goods used on the farm for producing food stuffs; the slaughtering, canning, and preserving industries; and the industries distributing food to the general population.[12] Thus it is easy to see how machinery and labor-saving devices have driven hundreds of thousands of boys and girls from their farm homes by removing from the farm much of the work formerly done there.

Besides machinery, other economic factors have combined to move the population from the open country into the city. Chief among them are the extension of railroads and the development of markets; improved methods of communication, especially the telegraph and telephone; and the disproportionately high tax burdens resting on farmers, as compared with city residents. These agencies have not made their influence felt independently of one another, nor independently of the machine process. They form a complex of causes, themselves largely the result of the perfection of machinery. The labor-saving machine has been stressed here not merely to simplify the problem, but to show that the other economic factors are more or less the effect of the perfection and increased use of machinery.[13]

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[7] National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 110.

[8] Lippincott, *Economic Development of the United States*, p. 429.

[9] Quaintance, *Influence of Farm Machinery on Production and Labor*, Publication of the American Economic Association, November, 1904, pp. 32–33.

[10] U. S. Department of Commerce, *Commerce Year Book, 1929*, Vol. I, p. 32.

[11] President's Conference Committee, *Recent Economic Changes in the U. S.*, Vol. II, pp. 558–559.

[12] Sanderson, Editor, *Farm Income and Farm Life*, p. 6.

If the economic factors are compared with the purely social factors as causative influences in moving the population from farms to cities, it will be found that the former are more potent than the latter. People leave the farm for the city to enjoy economic advantages more than for any other reason. A study made in twelve States, of 1,470 heads of families and unattached individuals who moved from the open country to towns during a ten-year period ending 1926, revealed that 35 per cent went to the city, hoping to enjoy greater economic advantages there than they had known on the farm. Twenty-six per cent went to secure better educational opportunities for themselves and their children; 15 per cent retired to the town or city because of old age, or to live in ease during their declining years; and 15 per cent sought a "livelier and better organized social life." The remainder gave as their reasons "failing health or incapacity to do farm work," "marriage to a man whose occupation was in the city," or "death of the bread-winner or entrepreneur." [14]

Similar results were revealed in a nation-wide survey made by the U. S. Department of Agriculture in 1926–1927. The Department studied 2,745 farm operators, who moved to cities, towns, or villages, and obtained from them their reasons for leaving the farm. Thirty-eight per cent of the reasons given were economic including, "high taxes," "high prices," and "not able to make ends meet." Twenty-five per cent included "physical disability," "old age," and "inability to obtain enough help to carry on the farm and the household." Eleven per cent included "small opportunity on the farm for schooling children," or, inadequate school facilities.[15] These reasons would probably be found to operate in the same relative proportion, if studies were to be made of the cityward movement throughout the entire country.[16]

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[13] U. S. Department of Commerce, *Census Monograph VI*, pp. 2–7.

[14] Taylor, *American Economic Review*, March, 1926, p. 158.

[15] U. S. Department of Agriculture, *Analysis of Migration of Population to and from Farms*, October, 1927, p. 7.

[16] Smick and Yoder, *A Study of Farm Migration in the State of Washington*, 1929, p. 17.

2. The second group of causes that have aided the growth of cities at the expense of the country, are social in nature. The term *social* includes all the causes that do not involve the motive of greater financial income. The social causes which make farmers and their families dissatisfied with their lot, and urge them to better themselves in the city are: (*a*) lack of educational facilities, (*b*) inadequate provisions for health, (*c*) lack of the means of recreation, and (*d*) absence of home conveniences, and long hours of labor.

(*a*) *Education.*—The contrast between the educational opportunities of the country and those of the city is marked. "Rural education," says the U. S. Bureau of Education, "is still the weak spot in the American educational sytsem. Equality of educational opportunity has in the past been the principle about which lay the most of discussion and the least of action."[17] While it is true that some of the outstanding leaders in politics and in the professions have come from the "little red school house," these persons have succeeded not because of the one-room school but rather in spite of it. There are at present approximately 200,000 one- and two-room schools in the United States. The teacher is required to teach from ten to fifteen subjects each day, and to hear perhaps forty recitations of children ranging in age from five to eighteen years. Under such school conditions the results must be of a very inferior quality. The children become indifferent, and many prefer to remain at home and work on the farm.[18] It is not surprising, therefore, that the illiteracy rate among the rural population is approximately twice as high as that among city dwellers.[19]

The low standards of rural schools as compared with those in cities can be readily understood. In the first place, rural teachers are often untrained and poorly paid. It is estimated that ten per cent have had only an elementary schooling and that fifty per cent have not completed high school.[20] Especially the teachers in the poorer districts in the South and Southwest are lacking in training. The poor equipment of teachers may be gauged by the low salaries which they receive. Over 112,000 rural teachers, which is nearly one-half of all the persons teaching in rural schools, receive an average of $735 per year.[21]

Furthermore, the rural school, ordinarily, is open for a relatively short term, sometimes for only five or six months of the year. In addition, it usually lacks the common physical conveniences of heating, and sanitation; and the children must travel great distances, which involves hardships, especially in the winter months. Finally, numerous farming communities are without high-school facilities and adequate county library service, and the children, if they wish to prepare for college, are forced to board in nearby villages or cities. Some of these obstacles, however, are being removed in the more enterprising farming districts by the erection of "consolidated schools." The "consolidated school" is a large institution centrally located in the township, to which the children are brought by motor bus. In 1924, there were approximately 14,000 consolidated schools, of which 1,500 had been organized during the preceding two years.[22] Nevertheless, the consolidated school is not a panacea for the ills of the rural educational system, and much remains to be done to give the farm child the educational opportunities enjoyed by the child in the city. It is not surprising, therefore, that many families move from their farm homes to the city, primarily to give their children the advantages of an adequate elementary and high school education.

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[17] U. S. Department of Interior, Bureau of Education, Bulletin No. 23, 1926, p. 53.

[18] Taylor, *Rural Sociology*, pp. 294, 297.

[19] Reuter, *Population Problems*, p. 35.

[20] Sims, *Elements of Rural Sociology*, p. 308.

[21] U. S. Department of Interior, Bureau of Education, Bulletin No. 23, 1926, p. 67.

(*b*) *Health.*—It is a popular impression that health conditions are better on the farm than in the city, and this impression is in the main correct. The number of deaths, annually, per 1,000 population is lower on farms than in cities, the former being 10.4 and the latter 12.5. Moreover, the average length of life is greater in the country than in cities. This condition prevails both in the United States and in the countries of Europe. The superior health conditions of the farm are due to fresh and simple food, fresh air, sunshine, and out-of-door life.

Nevertheless, the natural benefits of the farm are canceled, in part at least, by other factors. This is reflected in the broad fact that the death-rate is declining more rapidly in the city than on the farm. There is a relatively high sickness-rate among farm children, and a relatively high death-rate among the farm population in general, because of poor sanitation. Defects of the nose, ear, spine, and lungs are from two to four times as numerous among rural children as among urban children.[23] The death-rate of such infectious diseases as typhoid fever, smallpox, whooping cough, and influenza is higher in the country districts than it is in the city.[24] These conditions are usually traceable to improper sanitation on farm premises. In general, the low health-standards of many rural districts are attributable to an insufficient number of physicians, dentists, nurses, public health officials, and inadequate hospital facilities. In some communities, one physician serves an area covering fifteen to twenty square miles. The services of a dentist may be available only in the neighboring town or village, perhaps thirty or forty miles distant. These conditions are intensified by the almost complete absence of hospitals in farming districts. Nearly one-half (44.6 per cent) of the 3,068 counties in the United States are entirely without hospitals.[25] Thus the superior health facilities of the city, as compared with those of the country, and particularly those of the sparsely settled districts, are an important factor in drawing farm dwellers to towns and cities.[26]

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[22] U. S. Department of Interior, Bureau of Education, Bulletin No. 23, 1926, p. 76.

[23] Macklin, Grimes, and Kolb, *Making the Most of Agriculture*, p. 500.

[24] *Ibid.*, p. 499.

(*c*) *Recreation.*—It requires no extended proof to show that life on the farm offers fewer opportunities for recreation and social activity than does life in the city. This difference is felt keenly by young people on the farm, and is often the controlling motive in their leaving the country for the city. The lack of organized social life and recreation in the country, like many other rural problems, is due to the sparseness of the rural population. Community recreation, social gatherings, and the various forms of entertainment, such as movies, concerts, theatricals and dances, are impossible in districts where people live in family groups widely separated from one another. The automobile, however, has done much to offset the isolation of farm life, and has contributed to the maintenance of community centers, where young people and their elders can gather for amusement and necessary relaxation. Nevertheless, the problem of rural recreation is far from being solved.

(*d*) *Farm Home Conditions and Hours of Labor.*—Another social factor operating to stimulate the migration of the rural population to cities is the lack of comforts and conveniences in farm homes. The absence of modern conveniences, such as gas, electricity, running water, and toilet facilities, together with the heavy manual labor required of mothers and daughters about the house and in the fields, tends to make farm dwellers dissatisfied with their lot. The report of a study made of 357 farm homes in seven representative counties in Minnesota in 1924–1925, states:

> Only 15 per cent of the homes studied had water piped through the house as have most city homes. In more than half, or 53.3 per cent, of the homes, water for the kitchen was obtained by carrying it in pails from a well. About 33 per cent of the homes had a kitchen pump, usually connected with a soft-

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[25] Sanderson, Editor, *Farm Income and Farm Life*, p. 254.

[26] Moore, *American Medicine and the People's Health*, pp. 513–520.

water cistern. Some kitchens had two pumps, one for soft water and one for drinking water, but generally the drinking water was carried. Most of the 15 per cent having water systems also had baths and sanitary toilets.[27]

Similar conditions were revealed in a study made of Wisconsin farms in April, 1927. Through the assistance of rural teachers, information was obtained from nearly 6,000 school districts covering 52,757 farms. The survey showed that 17 per cent of Wisconsin farm homes are equipped with electric lights; 13 per cent use electric power; 9 per cent receive their electricity from home light plants; and 20 per cent have radio sets. Twenty-five per cent of the farm families use power washing-machines; 24 per cent have furnace heat; 14 per cent have piped running water in the kitchen; 30 per cent have piped running water in the barn; 11 per cent have bath tubs; and 7 per cent have hot running water in the kitchen.[28]

Conditions such as these existing in prosperous farming States like Minnesota and Wisconsin, clearly indicate that a very large volume of unnecessary work falls upon the mothers and daughters in the farm home. In this connection, Professor Taylor writes:

> Drudgery is one of the chief causes of discontent among the farm girls. It is the conviction of students of rural life, that much of the over work and drudgery could be relieved if the same solicitude were felt for the fatigue of the woman on the farm that is felt for the man, and if anything like the same amount of money were expended in labor-saving devices that is spent for such things to carry on farm work. A farmer who would not think of harvesting his wheat with a cradle, shelling his corn by hand, or even pumping his water by hand, allows his wife to use the washboard, the coal cook stove, and the old well, without a thought of the waste that is taking place by such labor-consuming tools.[29]

Finally, it is to be remembered that the hours of labor for farm men are excessively long, and that Sunday is a working day, at least as regards the care of live stock. The average length of the working day on the farm, is over eleven hours for week days, and about six hours for Sundays.[30]

It requires little imagination to see how all of these conditions, taken together, discourage boys and girls from making agriculture their life work, and urge them to try their fortune in the city.

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[27] University of Minnesota, Agricultural Experiment Station, Bulletin 234, June, 1927.

[28] *The Wisconsin Farmer,* November 24, 1927, p. 16.

[29] Taylor, *Rural Sociology,* p. 203.

[30] U. S. Department of Agriculture, Bulletin No. 1466, *The Farmer's Standard of Living,* p. 48; Sanderson, Editor, *Farm Income and Farm Life,* p. 201.

II. AGRICULTURE AND NATIONAL WELFARE

A. Industrialization of World Powers.—After a review of the cityward movement in the United States, and its causes, it becomes necessary to examine the data for each of the leading nations. The purpose of this inquiry is to determine the effect of urbanization on national well-being. How far can a nation safely permit its people to be concentrated in cities? What evils result from excessive urbanization? In answering these questions it will be sufficient to review the population data for the leading industrial nations, namely, the United States, Great Britain, Germany, and France.

In 1926, there were in the United States 86 million people living in cities, towns, and villages, and 31 million living on farms and in the open country. This means that for every one hundred persons on farms, there are about 280 persons in cities, towns, and villages. In 1880, for every 100 persons on farms there were only 130 persons in cities, towns, and villages. The proportion of the population classified as non-agricultural in 1926, therefore, was twice that of 1880. The same trend is found if the data are taken for the working population alone. In 1880, 44 per cent of all persons gainfully employed were engaged in agriculture, and 56 per cent were engaged in non-agricultural occupations. In 1920, the percentage in agriculture was 29, and that in non-agricultural occupations was 71.[31]

The European countries exhibit the same tendency toward urbanization as does the United States. The percentages of the population of the United States, England and Wales, Germany, and France, classified as urban and rural, are as follows:[32]

	Urban	*Rural*
United States	51.4	48.6
England and Wales *	79.3	20.7
Germany	64.4	35.6
France	46.3	53.7

* *The Statesman's Year Book, 1929,* p. 16; these figures are for 1921.

The number of persons engaged in agriculture out of each 1,000 persons of the total occupied population of the United States is 262; in Great Britain it is 68; in Germany, 353; and in France, 415. In each of these countries the number engaged in agriculture is considerably less than before the World War. Since the pre-war years the number in the United States has dropped from 330 to 262; in Great Britain from 78 to 68; in Germany from 384 to 353; and in France from 424 to 415. It is to be noted that the greatest decrease took place in the United States.[33]

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[31] National Industrial Conference Board, *Agricultural Problems in the United States*, p. 46.

[32] League of Nations, International Economic Conference, 1927, *Agricultural Problems in their International Aspect*, p. 412.

The foregoing data show that the movement toward industrialization has made the greatest strides in Great Britain. This is due to the fact that Great Britain began to develop her urban manufacturing long before other countries. Industry in Great Britain antedated that of most of the other countries by at least a century. Since 1750, the British policy has been to import raw materials such as cotton, wool, and iron ore; manufacture them into finished products; and export them. This policy has evolved into a conscious aim of employing the largest possible number of workers in manufacturing industries at home, and seeking to secure food from foreign countries by exporting manufactured goods. Thus it is said that the English people get their bread and meat from the holds of ships. It is estimated that at present England grows enough foodstuffs to feed her own people only three days a week. Food for the other four days must be imported.[34]

B. Economic Versus Natural Laws.—Great Britain is an example of modern industrialism pushed to its extreme limit. Her present condition, however, points the direction in which all modern nations are moving, by drawing their peoples to cities from farms. The question therefore may be asked: How far can any given nation safely permit this development to continue? This question must be answered in terms of the effects of industrialization on social welfare.

Some writers ignore the claims of social welfare, and insist that economic considerations alone should determine the movement of the population from the farm to the city, and vice versa. They hold that there is a surplus of people on farms at present, and that this surplus should flow freely into the industries of the cities.[35] It is to be remembered, however, that urban manufacturing industries are at present overmanned to the extent of 25 to 33⅓ per cent; that is, urban industry could be operated with from three-fourths to two-thirds of the number of persons now employed, inasmuch as the total volume of time lost through the various kinds of unemployment is between one-fourth and one-third of the total working time of the present working force. The surplus of population on farms, if a surplus exists, cannot be moved to the manufacturing industries in the cities, because the latter are already overcrowded. Moreover, it is not certain that such a surplus really exists. If it is maintained that a surplus farm population exists because there is a surplus of farm production, this situation can be corrected by reducing the number of working hours in agriculture, as manufacturing industries are doing. Thus the present average of eleven hours per day on the farm, could be reduced to seven or eight hours per day, and the entire number of workers could be retained in agriculture. This would also make it possible to free farm women and children from the excessive work which is usually required of them. In addition, with a reduction of hours spent in producing marketable goods, the men could devote more time to making home life more comfortable and pleasant, e. g., by installing plumbing; maintaining heating, power, and lighting systems; planting trees and shrubbery; and in general by making the home more attractive and congenial.

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[33] League of Nations, *op. cit.*, p. 416. For population of the principal countries by occupational groups see U. S. Department of Commerce, *Commerce Year Book*, 1928, Vol. II, pp. 681 and 682.

[34] *Semaine Sociale de France*, 1924, p. 76.

[35] National City Bank of New York, *Monthly News Letter*, October, 1927, p. 163.

Although there appears to be a conflict between social and economic laws within the industrial nations, this conflict is not a real one. Even if it were real, the claims of social welfare would still be superior, and would have to be given priority over the claims of economic forces. In other words, the manufacturing system in a nation may be extended only to that point where the well-being of the nation, or of other nations, begins to suffer. This statement seems to call for a further explanation of the phrase "social welfare."

C. Agriculture and Social Welfare.—Social welfare may be considered: (1) from the standpoint of the individual nation without direct reference to other nations, and (2) from the standpoint of the individual nation insofar as its public policies affect the well-being of other nations. Each of these phases of welfare will now be discussed.

1. Social welfare, when viewed from the standpoint of a single nation, requires that the nation aim to maintain the proper balance between its food-producing population on farms and its manufacturing population in cities. Before giving the reasons for this requirement, it will be necessary to examine more closely the expression, "proper balance." The expression, "proper balance," does not mean that the people of a nation are to be divided into two equal groups, with one-half on farms and one-half in cities. Neither does it mean that any fixed ratio should be maintained; for example, that 45 per cent of the population are to be farm dwellers, and 55 per cent are to be city dwellers, or vice versa. What may be a proper or optimum balance for one country, may

be highly unsuited to another. The proportion will vary from country to country, according to size of population, extent of territory, character of soil, volume of mineral and timber resources, and, what is of vital importance, per-man production of food materials.

Again, the most desirable proportion for any one country may fluctuate over a period of years. All that can be said with certainty is that, first, measured by the requirements of social welfare, there is a definite limit beyond which a nation cannot safely go in encouraging its people to migrate from farms to manufacturing centres; and secondly, that some of the world nations have clearly exceeded this limit, while others will soon face a similar situation. Thus Great Britain, with about seven-eighths of its population in towns and cities, and one-eighth on farms, has clearly crossed the danger line. The United States, with over seven-tenths of its population in towns and cities, and the remainder on farms, has also permitted itself to pass the limits of sound social policy. Doubtless, any further absorption of farm people by cities would be detrimental to the well-being of the United States. This is true especially in view of the vast extent of territory and the rich natural resources of this country, on the one hand; and the congestion prevailing in practically all of its larger cities, on the other. There are, in addition, other important considerations. These will be indicated briefly.

Three reasons for a well balanced population. There are three main reasons why a nation should aim to maintain a proper balance between its urban and rural populations: (*a*) The human values which can be preserved only by the institution of the family. (*b*) The social benefits which flow from a well established rural economy, viz., diffusion of ownership, and self-employment. (*c*) The desirability of a nation's being as self-supporting as its natural resources permit.

(*a*) The most valuable assets of a nation are the human values created by normal family life. Under the present organization of society, however, normal family life depends in no small degree on the maintenance of the proper balance of population between farms and cities. Inasmuch as modern nations markedly prefer to industrialize rather than to agriculturalize themselves, it will suffice to show how a population balance which is unfavorable to agriculture, operates to the prejudice of family life and human values.

The families of a nation are the cells composing the organism. If the cells of any part of the human body are diseased, the diseased condition, if not checked, communicates itself to the entire organism, and death follows. What is true of the human body is true of nations. A breakdown in the family life of a nation, if unchecked, means decay and ultimate death for the entire social body. Moreover, the families of a nation are more than its life-sustaining cells; they are its life-perpetuating cells. Hence, whatever interferes with the natural functions of the family, interferes with the permanence and perpetuity of the nation. History provides numerous illustrations of this law. When the family life of the Greeks decayed, they fell an easy prey to the Romans, who held family life in high esteem. Similarly, later on, when the family bond of the Romans grew weak, they fell before the barbarian invaders from the North. It is true also in modern times that the nation whose family life decays, will disappear; and the nation whose family life flourishes will survive.

In modern times, one of the important causes contributing to the decay of the family is the artificial life of the large city. The large city is essentially a place of individual interests, as opposed to family interests. The city home has little about it to unite the interests of father, mother, and children. In a city like New York, Chicago, or San Francisco, the father and adult children, and, frequently, the mother, go to their respective work-places, and each has his or her individual purse. A spirit of individual self-interest is thereby engendered, which manifests itself not only in the greater independence of adolescent children, but also in the impairment of the family bond through family limitation and divorce. At the present time, the divorce rate is more than twice as high in urban districts as in rural areas.

The tendency of city life is to make the individual, and of country life, the family, the unit of society. In the first place, the farm is a family enterprise and all the members of the family are interested in its success. There are 6,500,000 farms in the United States, and on three-fourths of them all the labor is performed by the farmer and his family, without the aid of outside help.[36] The economic organization of the farm, therefore, is a powerful factor in reinforcing family unity. Again, the normal educational functions of the family have the widest scope on the farm, where parents and children are in one another's company the greater part of the time. In the city, on the other hand, parents see comparatively little of their children, and more and more of parental authority is delegated to the school, and to supervisors of recreation outside of school hours. Moreover, the farm family with its close bond of union and its group loyalty, stands in sharp contrast to the age groupings of the city, which bring fathers together in men's clubs, mothers in women's clubs, and children in boys' and girls' clubs. The recreation of the farm is, accordingly, a family experience, whereas that of the city is a personal experience, dictated by individual inclinations and preferences. It is to be noted also that the influence of the family is exerted on the life of the individual for a longer time in the country than it is in the city. A larger proportion of the farming population marry, and they marry at an earlier age than do urban dwellers.[37]

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[36] National Industrial Conference Board, *The Agricultural Problem in the U. S.*, p. 107.

The beneficent influences of rural home life do not affect national welfare in a month or a year. They require time to operate. Nevertheless, they work directly and profoundly. Over two million persons are moving from the farm to the city each year, carrying with them their home ideals and attitudes.[38] Moreover, the silent but inescapable example of family life and the domestic virtues is constantly projecting itself from the farm into the city, and acting as a wholesome leaven in promoting normal family relations throughout the nation. With the decline of rural life, these invaluable influences are necessarily lost.

(*b*) The second reason requiring the maintenance of an optimum balance between cities and farms is based on two considerations of far-reaching social significance. The first is the wide diffusion of private ownership which results from a well established farm life within a nation. The second is the opportunity for self-employment, which under the present economic system, agriculture alone makes possible.

Father O'Hara writes:

> The Catholic Church has always encouraged private ownership of productive property as a source of security to the family and of stability to the nation. The great encyclicals of Leo XIII expatiate on its importance. It is unnecessary here to detail the advantages which arise from private ownership of such property; the sense of responsibility, of thrift, of independence are all fostered by it. There is no feature of American life more hopeful than the wide distribution of farm owners.
>
> It is characteristic of agriculture that it is composed of small units, whereas other large industries, such as mining and manufacturing, transportation, and commercial enterprises, are large establishments with a few responsible heads and many employees. The vast majority of farmers are their own employers, and develop the qualities of successful employers; namely, initiative, foresight and independence of spirit. There is no other large industry in which a man has an equal opportunity of becoming the head of an independent business.
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> In the cities a few people own the means of production; the multitude are economically dependent; the few direct industry, and the multitude are employed by them. Only in the country has the average man a fair chance to taste

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[37] Israel and Landis, *Handbook of Rural Social Resources*, p. 5.

[38] U. S. Department of Agriculture, *Yearbook of Agriculture*, 1926, p. 592.

the joys of economic independence arising out of the ownership of productive property. Only in the country does he generally have the exhilarating sense of being his own boss.[39]

(*c*) The third reason for maintaining a proper balance between the urban and agricultural population is a nation's need of being self-supporting. A nation, a French writer holds, is like a human being. It must have two arms: namely, agriculture and manufacturing. If one is overdeveloped at the expense of the other, sickness, decay, and ultimately, death will follow.[40] Overdevelopment of either one or the other is possible. For example, American manufacturing has been overdeveloped and agriculture depressed correspondingly, among other reasons, because of high tariffs on foreign goods coming into the United States. The opposite condition would now exist if legislation favorable to agriculture had been enacted continuously. Because of the tariff, industry tends to be over-manned, just as agriculture would be over-manned, if excessive legislation were to be enacted in its behalf.

National well-being, therefore, requires a government to shape its policies so that neither agriculture nor manufacturing is overdeveloped. Both arms are necessary for social welfare. In the first place, if a nation becomes too dependent on other nations for its food supplies, it exposes itself to the danger of exploitation, and the possibility of crop failures in other countries. On the other hand, if the manufacturing arm is not permitted to develop in proportion to the agricultural, the nation will tend to become merely a food-growing farm for other nations. Such a country lays itself open to exploitation by other countries, which will thereby be in a position to exact unduly high prices for their manufactured goods. Moreover, a country that becomes dominantly agricultural, because it fails to stimulate and develop its manufacturing industries, deprives itself of a sufficiently large home-market to buy its farm products. Thus it follows that national well-being is better served if a proper balance is maintained between farm and city dwellers, than if the farm population is permitted greatly to outnumber the urban population, or vice versa.

2. In the second place, social welfare is to be viewed from the standpoint of how the policies of each nation affect the peace and prosperity of other nations. This phase of social welfare did not require such close attention a century ago as it does today. It has been said that electricity

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[39] *The Church and the Country Community*, pp. 37–39.

[40] *Semaine Sociale de France*, 1924, p. 78.

has given the world a common nervous system. Nations are knitted together by the radio, cable, telegraph, and telephone in a way that was undreamed of a century ago. Moreover, rail and ocean shipping make it possible to exchange goods rapidly and cheaply between countries. In a word, modern methods of communication and transportation have made the world smaller.

With the increase of improved methods of communication and transportation, there has developed a high degree of dependence of the nations on one another. This may be seen by observing the constant growth of imports and exports of the world nations since 1850. At the present time (1930), the combined value of world trade is over 65 billion dollars each year.[41] The economic interdependence of the nations may also be observed in the functioning of markets. The prices of many commodities, in addition to the prices of money itself, are determined by forces which are world-wide in scope, and which entirely disregard the political boundaries of individual nations. Thus Professor Ely says:

> For great staple commodities like wheat and cotton the market is a world market. It is impossible that the prices of wheat or cotton in Europe should differ for any considerable time from their prices in America by more than the expense of transport. So-called "international" securities, such as government bonds and the stocks and bonds of certain great corporations, afford even a better example of goods for which there is a world market and a world price.[42]

Because of the altered conditions of the past fifty years, therefore, particularly in regard to transportation and communication, it is necessary for the statesmen of today to be world statesmen as well as law makers for their respective countries. Each country must plan its internal development with an eye to the effects of its domestic policies on world welfare. One of the domestic policies that each nation must study closely is the condition of its agriculture. This will appear from the treatment that follows.

If the balance between agriculture and manufacturing is disturbed markedly in any one of the world nations, injurious results must follow, not only for the nation itself, but for all other nations. The most serious of these results is the constant menace that the over-industrialized nation offers to world peace. Even a cursory examination of the workings of international trade will bear out this assertion. The short cut to the accumulation of national wealth is to expand industry and depress agriculture. Industry produces capital goods and book wealth much more rapidly than does agriculture. The rate of earnings of manufacturing enterprises is considerably higher than that of agriculture. In 1926, which was not the worst year for agriculture during the inflation period following the World War, the industries of the United States earned about thirteen per cent as a reward for capital and management, while farmers earned less than three per cent, or less than one-fourth the rate earned by corporate industries.[43] From a comparative study of the wealth of various countries there is little question that manufacturing nations increase their material wealth much more rapidly than do agricultural nations. It can be understood readily that when one nation embarks on a policy of wealth accumulation through industrial expansion and trade, other nations will seek to do the same. As a rule, nations act much the same as individuals: they are prone to envy the prosperity of others. Thus the mutual jealousies of the European nations played an important part in creating the conditions leading to the World War. The causes of jealousy among the industrial nations are evident when one considers the main requirements in a program of national industrialization. These requirements are: (*a*) raw materials, (*b*) foreign markets for finished products, and (*c*) a food supply for the industrialized population of the home country.

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[41] U. S. Department of Commerce, *Commerce Year Book*, 1928, Vol. II, p. 735.
[42] Ely, *Outlines of Economics*, 4th ed., p. 146.

(*a*) As to the first of these needs, it is evident that manufacturing can be developed in the various countries only up to the point where raw materials can be obtained for manufacture into finished goods. In other words, the available supply of raw materials determines the upper limit of industrial expansion. The natural resources of some nations enable them to secure their raw materials at home; for others, the lack of natural resources makes this impossible. As a result, nations like England, Germany, and France find it necessary to reach out beyond their boundaries into foreign undeveloped countries for iron, metal ores, oil, coal, cloth fibres, and rubber. "Concessions" and "spheres of influence" are secured in undeveloped territory like China, Mexico, and Africa. A conflict of interests necessarily arises among the home countries, especially when rival "concessions" or "spheres of influence" in foreign lands lie close to one another. The various "concessions" made to the European nations in China by the Chinese Government, are a potential source of ill-will, which can easily lead to open warfare. Numerous examples may be cited of international tension and open warfare which have grown out of the conflict over raw materials necessary for manufacturing industries.

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[43] U. S. Department of Agriculture, Bulletin, *Crops and Markets*, July, 1927, p. 254.

Professor Tawney writes: "It was largely the economic interests involved in gold and diamond mines which produced the war of Great Britain with the South African Republics. It was the menace to Japan of Russian economic expansion which lay behind the Russo-Japanese war. It was the right to exploit the iron ore of Morocco, with the opportunities of opening up the country by railways, ports and other concessions, which made Morocco the storm-center of international politics from 1904 to 1911. It was the economic possibilities of the Middle East which gave its significance to the controversy surrounding the Bagdad railway."[44]

(b) The second major requirement of a program of national industrialization is the need of foreign markets as an outlet for the surplus of goods manufactured in the home country. Inasmuch as all the industrial nations tend to manufacture more of some classes of goods than can be sold at home, the prosperity of the home population, and in some instances, its livelihood, will depend on the nation's ability to build up and maintain markets in foreign lands, especially those in a backward state of manufacture. The result is a keen rivalry among the manufacturing nations for markets. This rivalry may become so bitter that it will get beyond the control of statesmen and diplomats, and break out into open warfare. These conditions were illustrated prior to the World War. Germany had been feverishly expanding her manufacturing industries and spreading her markets throughout the entire world. England and France aimed to keep pace with Germany and retain the markets which they had already developed. These interacting causes played no small part in arousing the jealousy and hatred which culminated in the World War.

(*c*) It is to be remembered also that while the search for raw materials and markets in foreign lands is going on, an additional factor is operating in the home country. When a nation like Great Britain allows itself to be almost solidly industrialized, it necessarily deprives itself of a population to provide food. It is compelled therefore to seek its sustenance, as well as its raw materials, in foreign countries. According to Professor Tawney, England in 1913 spent £290,000,000 on imported foodstuffs, which was thirteen per cent of her total income; Germany, which in the middle of the nineteenth century exported wheat, spent £160,000,000 annually on foodstuffs before the War; and

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[44] *The British Labor Movement*, p. 110.

France, which has not been able to feed herself since 1860, imported £60,000,000 worth of foodstuffs before the War.[45] The need of a constant influx of foodstuffs has been an important element in urging these countries to found foreign colonies. This had led to a set policy of imperialism in Great Britain for over a century, and the same was true in France and Germany during the decades preceding the World War. Imperialism in itself is, of course, a fruitful source of international ill-will and irritation.

To summarize: Excessive industrialization increases the threefold pressure for raw materials, markets, and foodstuffs. As a result, international complications issuing in open warfare become practically inevitable. The law of business and industry is competitive rivalry, which ruthlessly eliminates the weak and gives the prizes to the strong. Among industrial peoples this law is applied to international relations, and the use of armed force becomes the final court of appeal. This result follows when the dwellers in cities greatly outnumber those on farms. Industrial nations are business nations; and the code of business, with its canons of competition and survival, comes to be their standard of justice. As a consequence, both national and international welfare are, in effect, rendered impossible.

III. STABILIZING THE FARM POPULATION

The first section of this chapter sketched briefly the cityward drift of the population, together with the chief reasons for the movement. The second section showed that the movement may be carried to the point where social welfare, both national and international, is seriously impaired. The present section will show that industrialization and urbanization will continue unless certain injustices resting on the farming population are removed.

A. Farm Isolation.—It is not correct to regard the agricultural problem as purely economic, and say that farmers give up tilling the soil and move to the city solely to secure greater income. If a simplified formula is desired to explain the cityward migration, the one nearer the truth is this: the people engaged in farming live and work in comparative isolation. Farm families do not live in as close proximity to one another as city families do. The average-sized farm in the United States in 1920, small and large taken together, was 148 acres, only 70 of which were improved. This, however, is an average, and conceals the important fact that in many States, particularly in the grain belt, the dominant sized farm is 640 acres.[46]

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[45] *The British Labor Movement*, p. 106.

The great distances separating rural families are at the root of the major farm problems. Without doubt, the low incomes of industrious farmers would be greatly increased if farmers were organized in selling associations. Distance, however, separates them and makes organization and united action very difficult. The same is true of rural recreation. The sparseness of the population is an immediate cause of insufficient community play and diversion. In like manner, the lack of proper medical service—doctors, health officers, hospitals and dispensaries—is to be attributed to the small number of families per square mile. In some districts there are not enough persons in an area of fifteen or twenty square miles to maintain a doctor, dentist, nurse, or hospital facilities. Again, the low school-standards in most rural districts are to be ascribed to the small number of residents, who, because of individual expense, are unable to support good schools and qualified teachers. Finally, the distances separating farm homes make it difficult for the community to present its just demands to State and Federal legislatures. When areas are large and people few, the number of representatives must be small, and the type of leader is likely to be below the average. This is an important obstacle to the proposal that farmers should organize politically in order to secure favorable legislation and to remove unjust tax and tariff burdens.

B. Weak Economic Position of Farmers.—The most urgent problem created by rural isolation is the weak exchange position to which farmers are reduced in dealing with urban agencies. This phase of rural economy deserves more detailed discussion. If it were remedied, many of the social problems of agriculture would gradually adjust themselves. If the exchange power of farmers could be strengthened, farm incomes would be increased, and farmers could provide themselves with greater physical and cultural opportunities. The average yearly reward per rural family for labor and management was $627 in 1926–1927.[47] During these years agricultural buying power was substantially the same as the average for the ten-year period of 1919–1929.[48] If the farmer's income were increased, he could have better schools, better medical service, more hospitals, and greater facilities for community recreation. It may be added that if greater incomes were made available to farmers, they would have a keener sense of the importance and dignity of their calling, and the social disesteem which now attaches to agriculture would gradually disappear.

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[46] For additional data see Taylor, *Rural Sociology*, pp. 83–85.

[47] U. S. Department of Agriculture, Bulletin, *Crops and Markets*, July, 1927, p. 253.

[48] *Ibid.*, October, 1929, p. 415.

The weakness of the farmer's economic position is evident from a comparison between the income of farmers and that of city dwellers. First, it is to be noted that despite a greater expenditure of labor, the farming population taken together receives a proportionately smaller share of material and cultural goods than does the population living in towns and cities. This inequality is seen from a comparison of the percentage of the national dividend received by farmers, with that received by non-agriculturalists. At the present time (1930) approximately 26 per cent of the population of the United States are actively engaged in agriculture and their share of the national dividend is only 10 per cent.[49] The remaining section of the population, or 74 per cent, receives 90 per cent of the national dividend. The relative smallness of the share going to agriculture, is not due to a small capital investment in farming as compared with non-agricultural industries. In fact, from the standpoint of capital investment, agriculture is the greatest industry in the United States. About fifty-eight billion dollars are invested in agriculture,[50] fifty-three billions in manufacturing, and twenty-two billions in railway transportation.

Moreover, if the wealth and income of farmers and non-farmers are compared over a number of years, it will be found that the disparity is on the increase. Thus there was a shrinkage of value in farm wealth from seventy-three billion dollars to fifty-eight billion dollars from 1921–1927, whereas the current value of the wealth of corporations increased from ninety-nine billion dollars to one hundred thirty-four billion dollars during the same period.[51] The same trends appear if the per capita current incomes of farm and non-farm dwellers are compared. In 1921, the latest year for which data are available, the per capita current income of the farm population was $186, while that of the non-farm population was $701. These amounts represent a decrease since 1919 of 49 per cent for the former group, and a decrease of 3 per cent for the latter.[52] It should be added, however, that the data for the years 1919–1927, are somewhat misleading, as they cover a period that was unusually unfavorable to agriculture. The figures for a longer period (1910–1927) will show that this is true.

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[49] Wallace, Proceedings of the National Conference of Social Work, Des Moines, Iowa, 1927, p. 20; see also Sanderson, Editor, *Farm Income and Farm Life*, p. 101.

[50] U. S. Department of Agriculture, Bulletin, *Crops and Markets*, July, 1927, p.   .

[51] U. S. Department of Agriculture, Bulletin, *Crops and Markets*, July, 1927, p. 257.

[52] National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 65.

The Committee on Recent Economic Changes presents the index numbers of farm prices, prices paid by farmers, farm wages, and taxes, (1910–1914 = 100) in the following table:[53]

Date	*Prices received for farm products*	*Prices paid by farmers for commodities bought*	*Ratio of prices received to prices paid*	*Farm wages paid to hired labor*	*Taxes on farm property (1914–100)*
1910	103	98	106	97	...
1911	95	101	93	97	...
1912	99	100	99	101	...
1913	100	100	99	104	...
1914	102	101	101	101	100
1915	100	106	95	102	102
1916	117	123	95	112	104
1917	176	150	118	140	106
1918	200	178	112	176	118
1919	209	205	102	206	130
1920	205	206	99	239	155
1921	116	156	75	150	217
1922	124	152	81	146	232
1923	135	153	88	166	246
1924	134	154	87	166	249
1925	147	159	92	168	250
1926	136	156	87	171	253
1927	131	154	85	170	258

The decline in farm wealth and income is even less marked when a period of several decades is reviewed.[54] For example, from 1890 to 1927 there were years in which farm prices rose more rapidly than did non-agricultural prices, and the farmer gained in consequence. This is true particularly of the War years of 1917–1919. Moreover, the agricultural output per farmer has increased by about 60 per cent since the beginning of the century. Nevertheless, making the proper allowances and striking an average for the entire period of 1890–1927, there has been a decline in agricultural wealth and income as compared with urban wealth and income during the same interval.

C. Causes of Low Incomes of Farmers.—Passing to the causes of the low income of farmers, it may be said that the dominant factor is the weak exchange position of farmers in dealing with those to whom they must sell their products, and from whom they must buy the goods which cannot be produced on the farm. By "weak exchange position" is meant the compulsion which a seller is under to sell his goods at a price that the buyer can virtually dictate, or the compulsion which a buyer is under to buy goods at a price that the seller can virtually dictate. Both of these compulsions operate against the farmer in selling his products and in buying manufactured goods. His weak exchange position as a seller results in the low prices that he must accept for his products. His weak exchange position as a buyer results in the high prices that he must pay for the goods and services he must purchase. His plight is to be explained by the fact that as seller and as buyer, the farmer usually acts as an individual, whereas the agencies with which he does business are usually organized or else closely controlled.

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[53] Report of the President's Conference Committee, Vol. II, p. 548.

[54] Friday, *American Economic Review*, *Supplement*, March, 1923, p. 150.

1. *Economic Structure of Farm.*—To understand these problems properly, it will be necessary to contrast the economic structure of the farm with that of the average urban manufacturing establishment. On the typical farm, the farmer, together with his wife and children, constitutes the labor force of the business unit. There are 6,500,000 farms in the United States, and 10,600,000 persons ten years of age and over engaged in farming.[55] This is an average of less than two persons per farm. Compared with the average city factory, the farm may be called a "one-man" enterprise. It is a "one-man" enterprise, both as a producing unit and as a marketing unit. The farmer is not only self-employed, but in addition, he toils on a piece-work basis. Hence there is always the incentive to work a little longer. Each additional quart of milk and bushel of grain means additional income. Every farmer therefore strives to increase the output of his farm, regardless of the fact that, barring unforeseen weather conditions, increased output will aid in reducing market prices, and consequently, his income.

Moreover, in a period of falling prices, the farmer, unlike the manufacturer, cannot stop producing and thereby reduce his costs. He may have an 80 acre tract of land encumbered with a mortgage and interest charges. What normally happens, therefore, is that the farmer produces up to the limit of his capacity, whether prices are rising or falling. In the years when farm crops are generally abundant, his income will be low. When they are generally fair or poor, his income may be somewhat higher or somewhat lower, depending on prevailing business conditions. The urban manufacturer, on the other hand, is much more advantageously situated. In the first place, he need not reckon with the uncertainties of the weather, as the farmer must, in determining the volume of output that will return him a fair reward. When a business slump sets in, he dismisses his labor force and shuts down his plant. He can stop producing entirely and cut his costs by perhaps two-thirds. Thus it is seen that as a producing unit the farm is subject to serious disadvantages as compared with the manufacturing concern of the city. This phase of the problem may be summed up by saying that farmers cannot adjust production to prices, whereas manufacturing concerns can do so.[56]

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[55] U. S. Department of Commerce, *Census Monograph VI*, pp. 50, 120.

2. *The Farmer an Individual Marketer.*—But the farm is not only an independent producing unit. It is also an independent marketing unit. About one-fifth of the total volume of agricultural products is sold coöperatively, or through selling associations.[57] This means that an overwhelming number of farmers are not members of coöperative associations, and consequently, lack organized power in selling their goods. They are a multitude of small venders, dealing with a few gigantic enterprises, such, for example, as the grain elevator corporations, stock-yard companies, and brokerage houses. As a consequence, farmers compete actively with one another in selling their products, particularly when they lack credit to enable them to wait for higher prices; whereas the agencies which buy farm products for city consumption present a fairly united front and usually possess strong financial backing. The result is that the farmer's exchange position is weakened, and farm prices are depressed accordingly.

The National Industrial Conference Board summarizes the process as follows: "Other things again remaining the same, the close organization or combination of [industrial] producers and their protection from foreign competition by the tariff would tend to raise the domestic price level of manufactured products relative to the price level of agricultural products insofar as the producers of the latter are not so organized or protected."[58] And again: "But it is probable that the lack of effective organization of farmers before the war as compared both with their intensive organization abroad and the long and extensive development of industrial, financial, and commercial organization in this country, has been one of the major factors in the unfavorable trend of the agricultural position since 1900."[59]

The weak exchange position of the farming population in dealing with urban residents operates in a twofold way in favor of the latter. The farmer is a seller and a buyer. In the first place, he sells to the agents of urban dwellers. These agents are the grain elevator corporations, the meat-packing companies, and the brokers in cotton, wool, and other farm commodities. They purchase sixty per cent of all the products raised on the farm, the remaining forty per cent being consumed on the farm premises.[60] To repeat, these agencies are highly organized, whereas the farmers are unorganized.

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[56] The National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 113.

[57] *Ibid.*, p. 21; see also Booth, *American Academy of Political and Social Science, Annals*, Vol. CXLII, pp. 406–413.

[58] *The Agricultural Problem in the United States*, p. 133.

[59] *Ibid.*, p. 92.

3. *The Farmer an Individual Buyer.*—In the second place, the farmer is a buyer of city goods. Sixty per cent of his living and business expenses are consumed in purchasing commodities and services from city agencies.[61] These agencies are the mail-order houses, railroads, banks, farm-implement dealers, and general-merchandise stores, all of which are the ultimate agents of city producers. Here, too, competition is more or less restricted among urban producers, in their capacity as sellers. On the other hand, competition is almost entirely free and unrestricted among farmers, inasmuch as less than two per cent of the six billion dollars' worth of manufactured goods purchased by agriculturists each year, are purchased through coöperative associations.[62] Perhaps the evil effects of competition among farmers as buyers appear most clearly in the shipment of farm goods to market. Unjustifiably high freight-rates are levied on agricultural commodities because the railroads, which are highly integrated, are in a position to exact these charges. In his report on Agriculture for 1926, Secretary Jardine wrote: "I believe that we must have substantial readjustments in freight rates. High freight rates constitute one of the many causes that have contributed to the depression in farm prices, especially in areas distant from the market. It is generally conceded that the entire freight rate structure needs overhauling." [63]

4. *Subsidiary Causes.*—While the weak exchange position of farmers in dealing with urban agencies is the principal cause of low farm-incomes, there are other causes which deserve attention. They are: first, the backward and substandard methods of production employed by hundreds of thousands of farmers; secondly, the disproportionately high tax-burdens carried by the farming population; and, thirdly, tenancy, Each of these causes, like the one just considered, is to be studied in connection with the fact that farming is highly individualistic.

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[60] *Ibid.*, p. 93.

[61] *Ibid.*, p. 112.

[62] *Ibid.*, p. 135.

[63] U. S. Department of Agriculture, *Yearbook*, 1925, p. 23; see also *Yearbook*, 1927, pp. 1176–1177; *Yearbook*, 1928, p. 1084.

(*a*) *Varying Degrees of Managerial Ability.*—The first cause just referred to is the inefficient methods employed by many farmers in operating their farms. There is a wide divergence in the productiveness of farms even in the same community where identical soil and weather conditions prevail. The yield of grain, milk, eggs, or fruit varies from farm to farm in the same locality by from 40 to 60 per cent. Such variations are due not only to differences in the work habits of farmers, but also to differences in managing ability. The latter are especially worthy of note. Ability to plan and manage is indispensable in the operation of a farm. Needless to say, all farmers do not possess this gift to the same degree. They differ from one another in the same way that city dwellers do. Moreover, as city industries are organized at present, the overwhelming percentage of persons gainfully employed do no planning or managerial work whatsoever, and all of the planning and managing is done for them by a very small and carefully selected group. Of the total number of 10,800,000 persons, who are engaged in urban industry, only seven per cent, or 700,000, are owners, foremen, and managers; and the rest merely carry out orders and are paid wages.[64]

It should be added that varying degrees of managing ability are recognized among the 700,000 persons who occupy managerial positions in urban industries; and that these variations are compensated accordingly. The comparison between farm and industrial management serves to bring out the fact that every farmer is obliged to be a manager, and that naturally some will fall below the average, and hence receive smaller incomes. The necessary consequence will be a reduction of income for the total number of farmers. This is an element that must not be left out of the reckoning when a comparison is made between the total income received from agriculture and that received from urban industry. As a causal factor, however, it is of far less importance than the broad fact that farmers as a class occupy a relatively weak exchange position in selling their products to city consumers, and in buying city products in return.

(*b*) *Taxation.*—Of taxation, Secretary Jardine stated in his report of 1925: "It is a matter of common knowledge that during the disastrous period from the close of the war to 1924, there were many farmers in all parts of the country who failed to 'make their taxes.' "[65] But even in fairly prosperous years the farmer is compelled to carry a relatively heavy share of the general tax burden.[66] This is explained by the fact that the general property tax provides the major part of governmental revenues, and that this tax strikes the farmer with greater severity than it does urban residents. The property of the farmer consists for the most part of land, whereas that of urban residents consists largely of intangible wealth, such as bonds and securities. In 1927 Secretary Jardine stated: "The farmers have a larger proportion of their property in a form that can be reached by the assessor than do other groups, and it follows that they pay a larger share in the total expenses of government."[67]

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[64] *American Economic Review*, March, 1923, p. 157.

[65] U. S. Department of Agriculture, *Yearbook*, 1925, p. 25; see proposed remedies in *Yearbook*, 1927, p. 24.

In addition to this inequality, it is to be noted that the farmer cannot add his taxes to the prices of his goods and collect them from the consumer. He is unable to do this because the total output of the agricultural industry determines the price, and farmers cannot control the output of their industry. The output is beyond their control because each farmer acts as an individual producer, without regard to how little or how much other farmers are producing. In manufacturing industries, on the other hand, the case is different. The manufacturer is usually in a position to control the production of his plant. He can curtail or expand his volume of output with relative ease. Hence he can add his taxes as a prior lien on his product and shift the burden to the consumer.[68]

(c) *Tenancy.*—Another cause of low farm incomes is the system of land tenure in farming communities, especially in the Southern States. Farm tenancy has grown steadily during the past fifty years. Farm tenants have increased from 256 per 1,000 farm operators in 1880, to 381 per 1,000 in 1920.[69] It is to be observed, however, that this change has not been uniform throughout the United States, and, moreover, that in the Northern States it is not nearly so serious as in the South. A very large percentage of Northern tenant-farms are owned by landlords, who are either the fathers, mothers, or parents-in-law of tenants. The tenancy of the operator is usually a stepping-stone to ultimate ownership. In the South, on the other hand, conditions are far different. Here, under the "renter" and "cropper" systems, one out of five persons remains on the same farm less than a year. The "cropper's" lot is especially wretched and pitiful. When the crop is sold the landlord takes his share first, and the "cropper" takes what is left. Frequently there is nothing left but a number of unpaid debts; and custom requires the ''cropper'' to work another year for the landlord to pay off the debt. He is thus reduced to a state of peonage, becomes shiftless and indifferent, and moves from place to place. In consequence, a roving villein class has grown up. This explains the poverty, illiteracy, and decay found in many Southern communities. The remedy for this condition, it would seem, is the introduction of a system of graduated taxation on land, which will break up large land holdings into small farms; of compensation for improvements; and of rural credit to struggling tenants.

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[66] President's Conference Committee, *Recent Economic Changes in the United States*, Vol. II, p. 548.

[67] U. S. Department of Agriculture, *Yearbook*, 1926, p. 20; see also *Yearbook*, 1927, p. 24.

[68] National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 112.

[69] U. S. Department of Commerce, *Census Monograph IV*, p. 20.

The three causes just enumerated, namely, substandard methods, taxation, and tenancy, play an important part in depressing farm income. Nevertheless, in making plans for the preservation of the proper equilibrium of population between the city and the farm, the basic fact of the weak exchange position of farmers in dealing with urban buyers and sellers, must be kept in mind. People will move from the place where material and cultural goods cannot be secured at all, or only with great difficulty, to the place where they can secure these goods, and, they are confident, with less exhausting effort. This is strikingly illustrated in the recent migration of Negroes from the ''cropper'' farms of the South to the Northern cities. Under existing economic conditions the number of persons who will move to cities from farms will increase, as farm incomes decrease relatively to city incomes. Accordingly, the problem of maintaining the proper balance of population between farm and city, becomes largely a problem of preserving an equitable exchange position between agriculture and city industries. Since the maintenance of a properly balanced population is necessary for welfare, both within the nation and throughout the world, it follows that the exchange position of agriculture must be maintained at an equitable level in order to safeguard national and international well-being.

D. Coöperation.—Up to the present time, the most effective instrument that has been devised to strengthen both selling and buying positions of the farmer is coöperation. Coöperation is of two kinds: coöperative selling or marketing; and coöperative buying. In theory, they are the same. Both assume organized action. Coöperation, whether in selling or buying, gives each member of the association some of the strength that results from the fact that the association exists.

1. *Theory of Coöperation.*—The ultimate explanation of the strength created by organization is that the coöperative association limits individual action, or competition. The freedom which the individual member sacrifices, however, is compensated in relatively higher monetary re-

turns. Moreover, the freedom sacrificed would, if retained, work to the detriment of the individual seller. An effective coöperative selling association prevents its members from bidding against one another in disposing of their grain, cotton, live stock, milk, fruit, tobacco, or other products. The selling is taken over by trained association officials who negotiate prices for all the members. In this way prices cannot be reduced to the level of the ''lowest bidder,'' inasmuch as coöperation necessarily eliminates bidding. The same principle is employed in trade-union organization. A worker joins a trade union and thereby surrenders his freedom of action to the extent that he agrees not to sell his labor below the minimum negotiated jointly by a union official and the employer. The competition of the ''lowest bidder,'' in fact, all bidding below the minimum is thereby eliminated. Because of his affiliation with the union, each worker enjoys some of the strength created by mass action. Coöperative marketing of farm products is based on the same principle. It is essentially a form of collective bargaining.

The principle employed in coöperative selling and trade-union action forms the basis also of coöperative buying. Coöperative associations or consumers' associations, as they are sometimes called, purchase quantities of coal, groceries, clothing, farm implements, or gasoline, at wholesale prices, and each member of the association pays for the share of goods that he receives. In this way, competition in buying is eliminated among the members of the association.

Among the European countries, Denmark has made the greatest progress in coöperative marketing. In the United States, the movement has been developed only in some commodities and in certain localities, for example, in the fruit belt in California, and the butter and dairy districts in Minnesota. The combined total of coöperative marketing in the United States is relatively small, as only about 20 per cent of the total agricultural output is marketed coöperatively. With coöperative marketing in the United States still in its infancy, it does comparatively little toward strengthening the farmer's position as a seller, or increasing his income. As far as coöperative buying is concerned the movement is so relatively small as scarcely to deserve consideration. Coöperative buying associations purchase only about 2 per cent of the entire volume of goods purchased by farmers.[70] While one-fifth of the total agricultural output is sold coöperatively, the effect on prices is slight, for the reason that ninety-five per cent of the associations are local in scope, and frequently compete with one another. It is not astonishing to find, therefore, that the difference in the farmer's favor between selling as an individual and selling coöperatively is extremely small. Nevertheless, it should be added that there has been a steady growth in coöperative marketing since 1913. The average business of coöperative associations more than doubled during the decade of 1913–1923.[71]

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[70] National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 135. For estimate of coöperative marketing, see p. 91.

2. *Coöperation Required by Justice.*—The elementary dictates of justice require the application of coöperation to agriculture. The coöperative association enables the farmer to deal in an organized way with urban agencies, which are highly organized. A balance of power is thereby effected, which cannot be secured without the machinery of coöperation. Justice requires that in any transaction neither party should have a preponderating advantage over the other, i. e., neither should be in a position to dictate terms to the other. As commerce between the agricultural population and city agencies is now carried on, the city agencies enjoy a marked advantage, because they, as the buyers of farm products, are practically united, whereas the sellers of farm products are united only to a small extent, and the coöperatives that exist cover but a very limited total area. To secure an approximate equality in exchange, therefore, greater and more intensive organization among farmers is necessary.

3. *The Future of Coöperation.*—In proportion as the coöperative movement among farmers spreads, farm incomes will rise, and the opportunities for social and cultural advancement will be increased. More persons will thereby be induced to remain in agriculture, and the proper balance of population between farms and cities will tend to approach actualization. It should not be supposed, however, that these results will be realized at once. In fact, the necessary preliminary work may require decades. The chief task is that of education, which is always a slow process. It is said that Sir Horace Plunkett, the leader of the coöperative movement in Ireland, made twenty-three visits to a little Irish community before a coöperative creamery was finally established there. The farming population itself must be taught the importance of coöperation in solving its problems. Moreover, at the start, it must be satisfied with modest results. With the exception of a few well-managed associations, coöperatives have not succeeded in raising farm prices appreciably. In fact, until the movement gets well under way, it will be necessary to submerge the profit

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[71] *Ibid.*, p. 91.

motive entirely and emphasize the idealistic and altruistic. Experience has shown abundantly that the profit motive alone cannot make the movement succeed.

Finally, farmers must also be prepared to sacrifice some of their spirit of independence, and submit to the discipline which organization always requires. For example, they must accept the regulations of the association, requiring goods to be graded, packed, and even processed. Incidentally, processing increases farm profits, as it enables the farmer to add labor to his commodities. Farmers must also be ready to suppress local pride, and consent to delegate authority over their local communities to large central sales-terminals. When the work of education has progressed to the point where individual farmers and local farm associations are convinced of the need of extending the movement, and when they are prepared to make the necessary sacrifices, the farming community will secure its fair share of the national income, and enjoy proper standards of living.

4. *Farm Income and Better Farm Family Standards.*—It should be emphasized that what is recommended here is not merely more income for the farmer, but more income insofar as it makes possible a higher standard of living. A higher standard of living involves the consumption of a greater volume of goods and the opportunity for greater cultural and spiritual enjoyments than have hitherto obtained. It also implies a reduction in the hours of labor of farmers. More income is not identical with higher standards of living. Unless increased income is spent in satisfying an increased number of material, cultural, and spiritual wants, the results will be merely an accumulation of money wealth. This, of itself, will not advance rural welfare. What is necessary is the consumption of increased income in greater leisure, better churches and schools, better medical service, more books, and all of the things necessary for a genuine rural culture. These enjoyments are certain to follow, if greater money income makes their purchase possible. As the process works itself out, the problem of maintaining a balanced distribution of the population between farms and cities will gradually solve itself, and public welfare will be reasonably assured.

IV. GOVERNMENTAL OBLIGATIONS TO AGRICULTURE

The preceding sections have emphasized a single aspect of rural problems, namely, the very large number of persons living in cities and towns as compared with the number living on farms. It was seen in the first section that in all the industrial nations, people are moving steadily from farms into towns and cities. The second section showed that the movement may go beyond a safety point, and that this point is exceeded when welfare suffers because of a disturbed population balance. Section third showed that one of the most effective means of stabilizing the farm population is to raise the living standards of farmers, chiefly through an increase of farm income. Farm income, it was seen, can be increased through the creation of organizations comparable in strength and extent to the agencies which market the products of urban workers. The final section, to follow, will demonstrate that the efforts made by farmers themselves to maintain or improve their living standards must be reinforced by governmental assistance, or at least, that certain governmental policies must be revised in order to allow private initiative in agriculture to function more freely.

A. Governmental Assistance to Agriculture.—It would be incorrect to say that in the past the American government has been indifferent to the welfare of farmers. On the contrary, every President since Washington has urged assistance and encouragement to agriculture.[72] From the beginning of the nation's history there has been a clearly defined policy of developing and improving the status of agriculture. Immediately after its establishment, the Federal Government sought to populate the public domain by offering land to homesteaders at nominal prices. Later it made vast grants of land to the railroads, and set aside irrigation sites for the purpose of encouraging the movement to the land. Moreover, Federal and State bureaus have carried on research projects to check plant and animal disease; they have introduced plant species and animal breeds from abroad; and have developed markets for American farm goods in foreign lands. Crop and weather reports are broadcasted regularly, and even the financing of farms is facilitated by government loans. Within recent years, huge sums have been appropriated by the Federal Government for the construction of country highways and the improvement of the rural mail service.

B. Two Governmental Policies Calling for Revision.—Nevertheless, the direct governmental activities just enumerated are neutralized to a considerable degree by the various ways in which the Federal and State Governments have administered public moneys, and legislated in favor of the city population, to the detriment of agriculture. Foremost among the governmental policies that have operated to the detriment of farmers are: (1) the inequitable methods of collecting and apportioning tax money, and (2) the imposition of high tariff duties on foreign manufactured goods, which results in higher prices for goods purchased by farmers.[73] These policies represent a clear disregard of the requirements of distributive justice. Distributive justice, it will be recalled from Chapter IV, obliges public officials to apportion burdens and benefits equitably among the whole population. The following review of the problems of taxation and the tariff will show that the canon of justice which requires an equitable distribution of burdens and benefits, is generally ignored insofar as it affects farming communities.

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[72] Lippincott, *Economic Development of the United States*, p. 401.

1. *Taxation.*—As compared with non-agricultural groups, the rural population contributes more than its proportionate share of taxes, and receives far less than its fair share of the total tax moneys collected. One of the principal reasons for this inequality is the existing system of levying taxes, particularly, the general property tax. This tax is the most important source of tax revenue in the United States, as it provides three-fourths of the tax money required for the maintenance of State and local units of government. The general property tax, however, places a disproportionately heavy burden on agriculture, because it rests almost exclusively on land, which, unlike most personal property, cannot escape the assessor's eye.

Furthermore, the general property tax fails to reach a considerable portion of wealth owners who possess intangible personal property, such as stocks, bonds, and bank deposits, the total volume of which probably exceeds the total volume of real estate.[74] Incidentally, the general property tax was a fairly equitable system of levying taxes prior to the rise of industry in the middle of the last century. A former Secretary of Agriculture, Mr. H. C. Wallace, writes: "This method gave reasonable satisfaction in earlier times because a larger portion of the personal property was in tangible form and could not readily escape assessment. With the growth of industry and commerce, however, an increasing proportion of our national wealth is taking the form of stocks, bonds, and other kinds of property which are not regularly placed on the tax rolls. As a result the property of the farmer which is in plain view of the assessor pays a larger part of the total tax bill than his share of the national wealth warrants."[75]

The soundness of this conclusion is evidenced by surveys made in various parts of the country. For example, studies made by the U. S.

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[73] Black, *American Economic Review*, March, 1926, pp. 140–144.

[74] The National Industrial Conference Board, *The Agricultural Problem in the United States*, p. 114.

[75] Wallace, *Our Debt and Duty to the Farmer*, p. 181.

Department of Agriculture covering agricultural and urban real estate in three representative counties in Indiana, revealed the fact that the burden of the general property tax on agricultural land was almost twice as heavy as on town and city real estate. The National Industrial Conference Board comments on this survey: "How far this comparative picture applies to the country as a whole cannot be definitely stated, but such data as have been collected in various studies by governmental and private agencies appear to indicate that the situation in Indiana is fairly typical of other important agricultural localities." [76]

Inequalities in the apportionment of tax burdens can be corrected by taxing the value of the products of the land, averaged over a period of five or ten years, instead of taxing the land itself; by increasing the tax rates on intangible wealth such as stocks, bonds, and other securities; and by increasing the tax rates on incomes and inheritances. This plan would obviate the need of curtailing necessary governmental expenditures, and at the same time would remove the disproportionately high tax burdens now resting on agriculture.[77]

Distributive justice is violated with respect to farmers, not only in the levying of taxes, but also in the apportioning of the tax money collected. This injustice appears most strikingly in the matter of rural schools and rural highways. In many sparsely settled rural districts, the maintenance of an adequate school places a very heavy burden on the community. This is true especially in communities where the State sets up legal minimum standards which all schools, rural and urban alike, must meet. These standards are set with the view of protecting the country child as well as the city child, and are necessary to insure an intelligent and well informed citizenship for the future. But, as some have proposed, if the State sets standards which are higher than a local community itself would establish, the State should contribute a fair share of the additional expense. A stronger argument can be made from a somewhat different angle. At the present time, the farms of the United States are rearing from one-third to one-half a million more children than are necessary to maintain the farm population.[78] As a result, each year, between three and hour hundred thousand young folks (approximately one-third of all farm children) are contributed to the city, mature, able-bodied, trained, and schooled.[79] According to this reasoning, the city receives one-third of the country's children grown to adult manhood and womanhood, and should therefore pay for part of their training, by bearing a part of the upkeep of the rural school system.[80]

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[76] *Op. cit.*, p. 117.

[77] *American Economic Review, Supplement*, March, 1926, p. 143.

[78] Wallace, *Our Debt and Duty to the Farmer*, p. 24.

[79] Wallace, *op. cit.*, p. 21.

To this argument might be added the further consideration that the self-interest of the city should prompt it to pay its fair share of the cost of maintaining proper standards in rural schools. Nothing is clearer than the fact that cities receive their "new blood" from the country, and that, eventually, a very considerable proportion of the city's population will be made up of men and women raised in farming communities. Some States, notably New York and Wisconsin, have adopted this wider social view, and have recognized the obligations of city wealth to rural schools by apportioning larger amounts for rural schools, than had hitherto been the case. New York, for example, returns fifty per cent of the income taxes to the districts in which they were collected.[81]

The question of a just distribution of tax moneys arises also in connection with country roads. In most rural districts, the public highways are maintained through local taxation without assistance from the central government. The inequitableness of this arrangement is apparent. Country roads are used not only by the farmers of a county, but by practically the entire population. This is true, especially since the coming of the automobile and other motor vehicles. In view of the changed methods of transportation, a larger part of the cost of roads should be borne by the general tax funds of the State.

2. *Tariff.*—The other governmental policy which calls for revision in favor of agriculture is the protective tariff. From the beginning of its history, the United States government has followed the policy of developing urban industries by protecting them from competition with cheaper goods produced abroad. Protection has been secured by imposing a high tax or tariff on foreign goods when they enter the country. Doubtless this was a wise plan when the nation was dominantly rural, and struggling infant industries needed protection until they were strong enough to compete with foreign producers. But American manufacturing industries have long since emerged from this stage. They have grown to enormous proportions, and, what is of importance here, they are able to exact higher prices from agricultural buyers than would be the case if there were no high tariff walls.

Again, American agriculture suffers by reason of high tariffs on foreign manufactured goods, because the foreign manufacturing population cannot buy American farm products if their own goods are kept out of the United States. Hence the tariff checks the outflow of farm commodities from this country, and limits the farmer's market, to that extent. Finally, it is to be pointed out that a tariff excluding foreign farm products from the United States, would not enable American farmers to secure higher prices for their goods, because American farms normally produce a volume of commodities in excess of domestic needs; and hence the surplus must go into foreign markets to find buyers. In other words, the farmers in foreign countries can find no market for their goods in the United States, and it is unnecessary for the United States to set up a tariff system to prevent them from doing so.

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[80] Wallace, *op. cit.*, p. 25; Israel and Landis, *Handbook of Rural Social Resources*, p. 123.

[81] U. S. Department of Agriculture, *Yearbook*, 1926, p. 21.

Professor Carl C. Taylor summarizes the effects of the tariff on the farmer as a buyer and seller thus:

> Farm implement costs are high because of tariffs. These costs plus the cost of building materials, food and clothing constitute more than sixty per cent of all costs in agriculture and these commodities can be protected. Cotton, corn, wheat, and many other farm staples are not protected and cannot be protected, because they sell and must sell in world markets and at world prices. Our so-called American Economic Policy does not favor agriculture. Indirectly it most distinctly handicaps agriculture, and there never was a time when this policy was more in the saddle or riding harder.[82]

All the intricacies of the tariff cannot be discussed here. It will be sufficient to say that the present system operates directly to the benefit of urban and manufacturing groups, and that it greatly increases the prices which farmers must pay for the goods they buy. A more fair governmental policy toward agriculture, therefore, would call for the removal of tariff restrictions on foreign goods. This change, however, would have to be effected gradually.[83] Otherwise, because of the deflation of industries now enjoying tariff protection, great losses of capital and serious unemployment would result.

C. Promoting Coöperative Associations.—Tax and tariff revision, however urgent, do not compare in importance with the more fundamental obligation of the government to aid in equalizing the exchange position between the farm and the city. This can be effected best through the establishment of coöperative selling and buying associations in farming communities. This proposal does not mean that the government itself should organize coöperative associations, or send its representatives into the country, and urge farmers to join this or that association.

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[82] Laidler and Thomas, Editors, *Prosperity*, p. 94.

[83] National Industrial Conference Board, and Chamber of Commerce of the United States of America, *The Condition of Agriculture in the United States and Measures for its Improvement*, p. 175.

Such action would be an undesirable form of state intervention, as it would tend to make farmers too dependent on state officials. Incidentally, a program of this kind would be resented by the great mass of self-respecting farmers. The ultimate purpose of a farm policy must be to teach farmers to help themselves. This object can be realized best by an energetic program of education carried on by the government, explaining the aims and purposes of the coöperative movement.

A study of the various remedies offered to enable farmers to help themselves will show that no plan holds out so much promise as does coöperative marketing and buying. Coöperation goes to the root of the economic problems of the farm, for, in the last analysis, the low incomes of farmers are due to their weak position in selling to the city's agencies, and in buying from them. Agricultural coöperation is the counterpart of large-scale buying and selling in the city. All available evidence indicates that it is only through organized coöperation among farmers that the rural population can deal on equal terms with the organized buying and selling agencies of the city.

Although organized coöperation is necessary to secure fair returns to farm operators, the movement cannot get under way and be of value to the farmer, unless it receives the initial impulse and continued encouragement of the government. This is true because of the peculiar structure of the agricultural industry. It cannot be repeated too often that the underlying factor in farm problems is the distance which separates farmers from one another. This fact makes organization for unified action extremely difficult. Farmers themselves can scarcely undertake the work of organization. Unless individual farmers have independent incomes and an unusual degree of altruism, they cannot spend their time traveling over vast areas, organizing sentiment for coöperative associations.

In order to assess accurately the prospects of the coöperative movement, certain obstacles to its extension must be kept in mind. First, while coöperative associations have achieved some success in marketing certain commodities such as cotton, dairy products, tobacco and fruit, they have generally failed to meet the major problem of adjusting farm output to market demands. A fair amount of success has been attained by some small and strongly entrenched associations. But the attempts to organize farm producers scattered over vast areas, and to adjust their product to market requirements, have failed signally. It is here that a considerable amount of governmental supervision is necessary.

There is, too, the undeniable obstacle of the farmer's negative attitude toward organization. Farmers, as a class, are individualistic. They are reluctant to surrender their independence, and this reluctance expands to an unwillingness to have their freedom in buying and selling curtailed. On the other hand, the essence of coöperation consists in relinquishing some measure of independent action. Nor is this all. The benefits of organization cannot be secured at once, nor even for a considerable time after the machinery for concerted action is perfected. All of these factors necessitate a long-time policy of education in the aims and methods of coöperation. The work of education might properly include the maintenance of schools in which leaders would be trained; the publication of the principles upon which coöperation rests, together with accepted methods of accounting; the distribution of reports on successful coöperatives in foreign countries, and a regular news service; and the establishment of uniform standards for farm goods.[84] Such activities clearly fall within the province of the Federal and State Governments. It may be added that the Federal and State Governments are now carrying on many of these activities.

The Federal Government has recognized the need of rural coöperative associations by permitting existing associations to place their products in interstate and foreign commerce, without observing many of the restrictions which are imposed on other selling organizations engaged in interstate and foreign commerce. The law granting this exemption to farm coöperatives was passed in 1922, and is known as the Capper-Volstead Act.[85] Other laws passed to aid agricultural coöperatives are the Packers and Stockyards Act of 1921, and the Grain Futures Act of 1922.[86]

Legislation in favor of agriculture culminated in the passage of the Agricultural Marketing Act on June 15, 1929. This law was designed to promote and finance the coöperative movement. Section first of the Act declares that it is the policy of Congress to place the industry of agriculture on a "basis of economic equality with other industries," by minimizing speculation, preventing wasteful distribution, and "promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled coöperative associations and other agencies." The Act creates a Federal Board consisting of eight members, which is "to promote education in the principles and practices of coöperative marketing of agricultural commodities and food products thereof," and "to encourage the organization, improvement in methods, and development of effective coöperative associations." The Board is authorized also to make loans to any approved coöperative association from a revolving fund of $500,000,000 appropriated by Congress. The Act contains other provisions intended to assist coöperatives, for example, the creation of stabilization corporations and clearing house associations.[87]

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[84] Wallace, *op. cit.*, p. 164.
[85] U. S. Department of Agriculture, *Yearbook*, 1928, p. 30.
[86] Israel and Landis, *op. cit.*, p. 100.

The assistance and encouragement of the coöperative movement among the farming population by the various branches of government, involves a use of governmental power required by public welfare. This activity may be classified as one of the promotive functions of the state. Moreover, it is free from the central objection to state intervention, namely, that the state should not aid directly any single class of the population. The encouragement of coöperation is not a direct aid to agriculture. It enables farmers indirectly to improve their condition through their own efforts. It merely makes it possible for them to help themselves, and, as the movement grows, the aid of the government can be gradually withdrawn.

D. Governmental Obligations to Agriculture Summarized.—The governmental obligations to agriculture proceed from the following considerations. The proper balance of population between farms and cities is essential to national well-being, and this balance will be maintained only when farm life is made substantially as attractive as city life. On the other hand, certain hindrances exist which prevent farmers with intelligence and capital equal to the intelligence and capital of city residents, from receiving rewards and satisfactions comparable to those of city residents. These hindrances, the state is obliged to remove. A sane and far-sighted policy therefore demands the immediate correction of some of the more glaring injustices now resting on the farm population, such, for example, as unequal taxation and the burdens of the protective tariff. Planning for the future, the government will endeavor to create equal opportunities for farmers in their exchange dealings with urban industries. Experience shows that this can be done most effectively by the systematic aid and encouragement of rural coöperative associations.

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[87] Public—No. 10—71st Congress. H. R. 1; for opinions of rural leaders on this legislation see *Rural America*, Vol. VII, No. 7.

V. GENERAL SUMMARY

This lengthy survey of farm problems may be summarized as follows: In all the industrial nations, people are moving from the open country into cities and towns. The causes of this movement are both economic and social. Human welfare dictates that the movement should not go on indefinitely. Considerations of national and international well-being require that a proper balance of population be maintained in every country. The farm population in the United States can be rendered reasonably stable, if agriculture is properly compensated. Farmers will receive more equitable rewards than they are now receiving, if the coöperative system is extended, and certain governmental disabilities now resting on agriculture are removed. In addition, it will be necessary for farmers to devote a larger part of their income to the enjoyment of higher living standards. Distributive justice requires both Federal and State Governments to encourage coöperative associations and to discontinue existing policies detrimental to agriculture. When agriculture is sound economically and socially, the vocation of farming will be accorded its proper dignity, and the countryside will form a respected part of national and international life.

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QUESTIONS FOR REVIEW

1. What proportion of the people of the United States live in cities?
2. What are the facts regarding the recent migration to cities?
3. Is the cityward movement world-wide? Give facts.
4. What are the economic causes of city growth? Social causes?
5. Show the effect of farm machinery on city growth.
6. Explain how education is a cause of city growth.
7. What are the facts of the relative health conditions of city and country?
8. Point out the relationship between agriculture and public welfare.
9. What is meant by a proper balance between the food-producing and the food-consuming sections of the population?
10. Give three reasons for maintaining a proper balance between urban and rural population.
11. Show how a balance unfavorable to agriculture operates to the detriment of family life.
12. What are some of the effects of industrialization on family life?
13. What advantages for the family are there in rural life?
14. What arguments would you use to persuade a boy or girl to remain on the farm?
15. Show how international relations are affected by agricultural production.
16. Are children a financial asset or a liability on the farm?
17. What are the main causes of agricultural decay?
18. Why is the economic position of farmers weak?
19. Should farmers specialize in producing certain crops?
20. What facts are available regarding the income of farmers?
21. What are the causes of the low income of farmers?
22. What can the farmer do to insure himself the return of the cost of producing his crops?
23. Why cannot the farmer adjust output to prices?
24. To what handicaps is the farmer subject as an individual marketer? As an individual buyer?
25. Name some of the weaknesses in farm management.
26. Is large scale production, as employed in city industries, feasible in agriculture?
27. How is the farmer adversely affected by taxation?
28. Explain the problems of tenancy and its effect on farm management.
29. What is coöperation? Explain the theory of coöperation.
30. Show how the underlying theory of coöperative marketing is the same as that of trade unionism.
31. What countries have made the greatest progress in coöperation?
32. Show how coöperation is required by justice.
33. What is the probable future of coöperation?
34. Why are farmers indifferent about coöperation?
35. Will farmers spend more money in improving their living standards if they receive greater income?
36. Has the government any obligation to agriculture? Why?
37. In what ways is governmental assistance to agriculture carried out?
38. Show the relation of the tariff to agriculture.
39. How would you justify the policy of the government in promoting coöperative associations?
40. Give the provisions of the main aids extended to agriculture by the Federal Government.

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